

COMMONWEALTH OF VIRGINIA



ARLINGTON CIRCUIT COURT
Civil Division
1425 NORTH COURTHOUSE RD
ARLINGTON VA
(703) 228-7010

Summons

To: JUSTIN POTTER WILSON JR
289 BERWICK DRIVE
HILTON HEAD SC 29926

Case No. 013CL25001935-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Tuesday, May 06, 2025

Clerk of Court: PAUL F. FERGUSON

by


(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name:

COVER SHEET FOR FILING CIVIL ACTIONS
 COMMONWEALTH OF VIRGINIA

 Case No. CL25-1935
 (CLERK'S OFFICE USE ONLY)

ARLINGTON

Circuit Court

ANDREI J KUBLAN, ESQUIRE

v./In re:

JUSTIN POTTER WILSON, JR

PLAINTIFF(S)

DEFENDANT(S)

I, the undersigned ☒ plaintiff ☐ defendant ☐ attorney for ☐ plaintiff ☐ defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

GENERAL CIVIL
Subsequent Actions

- ☐ Claim Impleading Third Party Defendant
☐ Monetary Damages
☐ No Monetary Damages
☐ Counterclaim
☐ Monetary Damages
☐ No Monetary Damages
☐ Cross Claim
☐ Interpleader
☐ Reinstatement (other than divorce or driving privileges)
☐ Removal of Case to Federal Court

Business & Contract

- ☐ Attachment
☐ Confessed Judgment
☐ Contract Action
☐ Contract Specific Performance
☐ Detinue
☐ Garnishment

Property

- ☐ Annexation
☐ Condemnation
☐ Ejectment
☐ Encumber/Sell Real Estate
☐ Enforce Vendor's Lien
☐ Escheatment
☐ Establish Boundaries
☐ Landlord/Tenant
☐ Unlawful Detainer
☐ Mechanics Lien
☐ Partition
☐ Quiet Title
☐ Termination of Mineral Rights

Tort

- ☐ Asbestos Litigation
☐ Compromise Settlement
☒ Intentional Tort
☐ Medical Malpractice
☐ Motor Vehicle Tort
☐ Product Liability
☐ Wrongful Death
☐ Other General Tort Liability

ADMINISTRATIVE LAW

- ☐ Appeal/Judicial Review of Decision of (select one)
☐ ABC Board
☐ Board of Zoning
☐ Compensation Board
☐ DMV License Suspension
☐ Employee Grievance Decision
☐ Employment Commission
☐ Local Government
☐ Marine Resources Commission
☐ School Board
☐ Voter Registration
☐ Other Administrative Appeal

DOMESTIC/FAMILY

- ☐ Adoption
☐ Adoption - Foreign
☐ Adult Protection
☐ Annulment
☐ Annulment - Counterclaim/Responsive Pleading
☐ Child Abuse and Neglect - Unfounded Complaint
☐ Civil Contempt
☐ Divorce (select one)
☐ Complaint - Contested*
☐ Complaint - Uncontested*
☐ Counterclaim/Responsive Pleading
☐ Reinstatement - Custody/Visitation/Support/Equitable Distribution
☐ Separate Maintenance
☐ Separate Maintenance Counterclaim

WRITS

- ☐ Certiorari
☐ Habeas Corpus
☐ Mandamus
☐ Prohibition
☐ Quo Warranto

PROBATE/WILLS AND TRUSTS

- ☐ Accounting
☐ Aid and Guidance
☐ Appointment (select one)
☐ Guardian/Conservator
☐ Standby Guardian/Conservator
☐ Custodian/Successor Custodian (UTMA)
☐ Trust (select one)
☐ Impress/Declare/Create
☐ Reformation
☐ Will (select one)
☐ Construe
☐ Contested

MISCELLANEOUS

- ☐ Amend Death Certificate
☐ Appointment (select one)
☐ Church Trustees
☐ Conservator of Peace
☐ Marriage Celebrant
☐ Approval of Transfer of Structured Settlement
☐ Bond Forfeiture Appeal
☐ Declaratory Judgment
☐ Declare Death
☐ Driving Privileges (select one)
☐ Reinstatement pursuant to § 46.2-427
☐ Restoration - Habitual Offender or 3rd Offense
☐ Expungement
☐ Firearms Rights - Restoration
☐ Forfeiture of Property or Money
☐ Freedom of Information
☐ Injunction
☐ Interdiction
☐ Interrogatory
☐ Judgment Lien-Bill to Enforce
☐ Law Enforcement/Public Official Petition
☐ Name Change
☐ Referendum Elections
☐ Sever Order
☐ Taxes (select one)
☐ Correct Erroneous State/Local
☐ Delinquent
☐ Vehicle Confiscation
☐ Voting Rights - Restoration
☐ Other (please specify)

 RECEIVED
 MAY -1 PM 1:08
 CLERK OF COURT
 JUDICIAL CIRCUIT

☒ Damages in the amount of \$ 1,000,000.00 are claimed.

05/01/2025

DATE

☒ PLAINTIFF

☐ DEFENDANT

☐ ATTORNEY FOR

☐ PLAINTIFF

☐ DEFENDANT

Andrei J. Kublan

PRINT NAME

6521 Arlington Blvd., Suite 201

ADDRESS/TELEPHONE NUMBER OF SIGNATOR

Falls Church, VA 22042

andrei@kublankhan.com

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

*"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.

VIRGINIA:

IN THE CIRCUIT COURT OF THE ARLINGTON COUNTY

ANDREI J. KUBLAN, ESQ.

Plaintiff,

v.

JUSTIN POTTER WILSON, JR.

Defendant.

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Civil Action No.

CL25-1935

RECEIVED
2025 MAY -1 PM 1:08
PAUL FERGUSON, CLERK
ARLINGTON CIRCUIT COURT

SERVE: JUSTIN POTTER WILSON, JR.
289 Berwick Drive
Hilton Head, SC 29926

COMPLAINT

COMES NOW, *pro se* Plaintiff, Andrei J. Kublan, Esquire (hereinafter "Plaintiff" or "Mr. Kublan"), and moves for judgment against Defendant JUSTIN POTTER WILSON, JR. (hereinafter "Wilson") on grounds and in the amount set forth below:

1. Mr. Kublan is an upstanding and honest citizen of the Commonwealth of Virginia and a competent and ethical attorney at law admitted to practice in the Commonwealth of Virginia, who has for many years, as part of his law firm Kublan Khan PLC, practiced his profession in the Courts of the Northern Virginia and has come to enjoy an excellent professional reputation among the members of the Virginia State Bar as well as among members of the community.

2. Wilson is an individual who until recently resided in the Commonwealth of Virginia, but who currently resides in South Carolina at 289 Berwick Drive, Hilton Head, SC 29926.

3. The Court has personal jurisdiction over Wilson pursuant to Virginia Code Section 8.01-328.1.

4. Neither Mr. Kublan nor his law firm of Kublan Khan PLC has ever represented Wilson as a client.

5. Mr. Kublan had previously represented Wilson's former spouse (hereinafter "Mr. Kublan's client") against Wilson during two child custody modification actions in the Arlington County Circuit Court in connection with the parties' minor child.

6. Wilson and Mr. Kublan's client were divorced on September 30, 2016 in Virginia where both parties resided at that time. *See* Final Order of Divorce attached hereto as **Exhibit A**.

7. As a result of the first child custody modification action, on September 9, 2019, the Arlington County Circuit Court significantly curtailed Wilson's prior shared child custody schedule by reducing it to every other weekend visitation and ordering Wilson to pay Mr. Kublan's client \$53,413.27 as a reimbursement for Mr. Kublan's attorney's fees. *See* Custody Order attached hereto as **Exhibit B**.

8. As a result of the second child custody modification action, on March 4, 2022, the Arlington County Circuit Court granted Mr. Kublan's client sole legal and physical custody of the parties' minor child and ordered Wilson to pay Mr. Kublan's client \$50,000.00 as a reimbursement for Mr. Kublan's attorney's fees. *See* Child Custody and Visitation Order attached hereto as **Exhibit C**.

10. On December 11, 2021, during the pendency of the second child custody modification action, Wilson posted a one-star review on Kublan Khan PLC's Google.com page and an identical review on Kublan Khan PLC's Yelp.com page. *See* Yelp.com and Google.com reviews attached hereto as **Exhibit D**.

11. In particular, on or about December 11, 2021, Wilson, with knowledge of Mr. Kublan's fine reputation as an upstanding member of the community and an ethical and competent attorney at law, did, with actual malice, compose, publish and circulate as "John P." on Kublan Khan PLC's Yahoo.com and Google.com pages, which are generally available to and visible to any members of the Virginia State Bar and the community, a "review" misleadingly titled "Ibrayeva v. Kublan", which directed audience to search for via Google and read the Virginia Court of Appeals published opinion in connection with Mr. Kublan's personal divorce case and contained certain false, scandalous, and defamatory statements concerning Plaintiff and his professional fitness, as follows:

a. "Kublan has adopted the approach and argumentation reflected in his own divorce proceeding in subsequent client representations."

b. "Potential clients risk suboptimal outcomes as his approach may result in a negative reputation and/or poor credibility among some judges in Virginia."

See Exhibit D.

8. The clear implication of the above-quoted statements in Paragraph 7 is that Mr. Kublan is completely unfit to practice law, lacks necessary integrity in the discharge of his job, and has negative reputation and poor credibility among judges which could negatively affect his clients' cases.

9. On December 13, 2021, Wilson added an additional comment to his earlier "reviews" titled "UPDATE 12/13/21" where he refers to Mr. Kublan's communication with Wilson's then lawyer John L. Bauserman, Esquire. *See Exhibit D.*

10. Although Wilson subsequently removed his Google.com "review," he kept his Yelp.com "review" posted.

11. On or about February 27, 2025, after his unsuccessful appeal of the March 4, 2022 custody order, Wilson posted another one-star “review” on Kublan Khan PLC’s Google.com page, which, although similar to his prior “review,” now contained some additional defamatory statements and a section titled as “UPDATE” misleading readers to believe that a certain action occurred after Wilson posted his “review” on February 27, 2025 necessitating an update. See Google.com review attached hereto as **Exhibit E**.

12. In particular, on or about February 27, 2025, Wilson, with knowledge of Mr. Kublan’s fine reputation as an upstanding member of the community and an ethical and competent attorney at law, did, with actual malice, compose, publish and circulate as “Justin Wilson” on Kublan Khan PLC’s Google.com page, which is generally available to and visible to any members of the Virginia State Bar and the community, a “review” misleadingly titled “Ibrayeva v. Kublan”, which directed audience to search for via Google and read the Virginia Court of Appeals published opinion in connection with Mr. Kublan’s personal divorce case and contained certain false, scandalous, and defamatory statements concerning Plaintiff and his professional fitness, as follows:

a. “Kublan has adopted the approach and argumentation reflected in his own divorce proceeding in subsequent client representations.”

b. “Potential clients risk suboptimal outcomes as his approach may result in a negative reputation and/or poor credibility among some judges in Virginia.”

c. “The act Kublan threatens, in my view, represents egregiously poor legal ethics and a willingness to abuse the court system.”

d. “An electronic search of Fairfax circuit court records indicate Kublan has initiated unsuccessful defamation suits.”

e. "This practice in my view lends further credibility an assertion echoed among others on this page that Kublan's threats have coerced the removal of negative reviews."

See **Exhibit E**.

13. The clear implication of the above-quoted statements in Paragraph 12 is that Mr. Kublan is completely unfit to practice law, lacks necessary integrity in the discharge of his job, has negative reputation and poor credibility among judges which could negatively affect his clients' cases, and only has positive reviews about him due to his coercive and bullying tactics against his clients forcing them to remove negative reviews.

14. At the time said statements were published, no action, disciplinary or otherwise, had been taken against Mr. Kublan by the district committee of the Virginia State Bar or any other body, nor had any recommendations been made that such action should be considered. There was no judicial or quasi-judicial record upon which the above-quoted statements could be based.

15. At the time said statements were published, Mr. Kublan has not initiated any unsuccessful defamation suits anywhere, including in the Fairfax County Circuit Court.

16. The above-quoted statements were published by Wilson with actual malice, that is, with knowledge that it was false or with reckless disregard of whether it was false or not. It was willfully designed by Wilson to discredit Mr. Kublan in his profession, and as such was malicious and per se slanderous and libelous. Statements such as those contained in the above-quoted material are, from their usual construction and common usage, construed as insults.

17. As a proximate result of the aforementioned false, malicious, defamatory, slanderous, libelous and insulting statements, published with actual malice by Wilson, Mr. Kublan has been caused to suffer great mortification, humiliation, shame, vilification, exposure

to public infamy, scandal and disgrace, injury to his good reputation, harm in the conduct of his business affairs, and financial loss, and has been and will forever be hampered in the practice of his profession, all in that Mr. Kublan has been falsely imputed to have conducted himself in an unethical and unprofessional manner. Much of this injury will endure permanently.

JURY DEMANDED

18. A trial by jury is demanded.

WHEREFORE, Plaintiff, Andrei J. Kublan, Esquire, demands judgment against Defendant, Justin Potter Wilson, Jr., awarding Plaintiff his compensatory damages in an amount of One Million Dollars (\$1,000,000.00), plus interest; punitive damages in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00); preliminary and permanent injunction ordering Defendant to remove Defendant's defamatory statements and prohibiting Defendant from publishing any additional statements; Plaintiff's costs expended in this action; and such other relief as the Court deems appropriate.

Respectfully submitted,



Andrei J. Kublan (VSB No. 73120)
6521 Arlington Blvd, Suite 201
Falls Church, VA 22042
Tel: 703-854-1081
Fax: 703-854-1083
Email: andrei@kublankhan.com
Pro Se Plaintiff



CL16001673-00
DIV
fd

VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

JUSTIN POTTER WILSON, JR.,

Plaintiff,

v.

CIVIL NO. 16-1673

ANNA NIKOLAEVA WILSON,

Defendant.

FINAL ORDER OF DIVORCE

THIS CAUSE came on to be heard upon the Complaint for Divorce filed by Plaintiff, JUSTIN POTTER WILSON, JR. ("Husband"), against Defendant, ANNA NIKOLAEVA WILSON ("Wife"); and the Answer to Complaint for Divorce filed by Wife;

IT APPEARING TO THE COURT that the parties agree to the terms of this Order, as evidenced by the signatures below and that the terms of this Order resolve all issues arising out of their marriage.

IT FURTHER APPEARING TO THE COURT, from the evidence duly taken, and independent of the pleadings or the admissions of either party, that:

1. The parties hereto were lawfully married to each other on September 30, 2005, in Arlington, Virginia.
2. One child was born of this marriage, namely Justin Potter Wilson, III, born September 1, 2008. No children were adopted of this marriage, and none are expected.
3. Husband is and has been an actual bona fide resident and domiciliary of the Commonwealth of Virginia for at least six months immediately before commencing this case.
4. Both parties are over the age of 18 years and neither is or has been an active duty member of the military service of the United States since commencement of this case.

EXHIBIT A

5. Wife's social security number is (See Private Addendum), and Husband's social security number is (See Private Addendum).

6. Prior to the marriage, the parties entered into a Premarital Agreement dated September 30, 2005. The parties have also entered into a Marital Settlement Agreement, which was signed by Wife and by Husband on May 19, 2016. A copy of the parties' Premarital Agreement is attached hereto as Exhibit 1. The parties' May 19, 2016, Marital Settlement Agreement is attached hereto as Exhibit 2.

7. The Premarital Agreement and the Marital Settlement Agreement together resolve all issues arising out of their marriage, including the matters of custody, visitation, support, and property division.

8. The parties have lived separate and apart without any cohabitation and without interruption for one year; to-wit: since at least January 1, 2015.

9. On or before January 1, 2015, it was Husband's intention that the parties' separation would be a permanent separation, and his intention has continued through the present day.

10. There is no hope or possibility of reconciliation between the parties.

IT IS HEREBY

ORDERED and **ADJUDGED** that Plaintiff is granted a divorce, *a vinculo matrimonii* from Defendant on the grounds that the parties have lived separate and apart without any cohabitation and without interruption for twelve months, to wit: since at least January 1, 2015, and have entered into a Marital Settlement Agreement; and it is further

ORDERED and **ADJUDGED** that the parties' Premarital Agreement and Marital Settlement Agreement are hereby affirmed, ratified and

incorporated into this Final Order of Divorce, but not merged, in accordance with the provisions of Virginia Code §20-109.1, and the parties are hereby ordered to comply with all of its terms and conditions. This Order shall not be deemed a modification of the terms of the September 30, 2005, Premarital Agreement or the May 19, 2016, Marital Settlement Agreement; and, it is further

ORDERED and **ADJUDGED** that the Plaintiff and Defendant shall share joint legal custody of their minor child, Justin, as set forth in Paragraph 19(A) of their May 19, 2016, Marital Settlement Agreement. Plaintiff and Defendant shall share physical custody of Justin as set forth in Paragraph 19(B) of their May 19, 2016, Marital Settlement Agreement; it is further

ORDERED and **ADJUDGED** that in accordance with the provisions of §§ 20-60.3 and 20-107.1(H) of the 1950 Code of Virginia, as amended, the following information is provided:

NOTICES and INFORMATION:

1. Notice is hereby given that support payments may be withheld as they become due pursuant to §20-79.1 or §20-79.2, from income as defined in §63.2-1900, without further amendments of this order or having to file an application for services with the Department of Social Services.

2. Notice is hereby given that support payments may be withheld pursuant to Chapter 19 (§63.2-1900 *et seq*) of Title 63.2 without further amendments to the order upon application for services with the Department of Social Services.

3. The name, date of birth and the last four digits of the social security number of the child to whom a duty of support is then owed by the parent as follows:

| <u>Name</u> | <u>Date of Birth</u> | <u>Resides With</u> | <u>SSN Last 4</u> |
|-----------------------|----------------------|---------------------|-------------------|
| Justin P. Wilson, III | 9/1/2008 | Mother/Father | 0633 |

4. The name, date of birth, the social security number of each parent of the child and, unless otherwise ordered, each parent's residential, and if different, mailing address, residential and employer telephone number, driver's license number, and the name and address of his or her employer as follows:

Person responsible for paying child support is Defendant/Husband.

| | PLAINTIFF | DEFENDANT |
|---|---|--|
| Name: | Justin Potter Wilson, Jr. | Anna N. Wilson |
| Date of Birth: | 9/20/1976 | 06/09/1976 |
| Social Security No.: | See Private Addendum Last Four Digits 2150 | See Private Addendum Last Four Digits 7883 |
| Driver's License No. and State: | C69603833, Virginia | B66007224, Virginia |
| Residence Address: | 319 North Oxford Street Arlington, Virginia | 888 N. Quincy Street, Unit 810 Arlington, Virginia |
| Residence Phone Number: | 202-492-0433 | 703-992-5626 |
| Mailing Address if different from residence: | Same as above. | Same as above. |
| Employer's Name and Address: | TennisServ. 626 Grant Street, Herndon, Virginia 20170 | Yorktown Systems Group, Inc. FSU/SLS/SPP – Russian Section 1200 Wilson Blvd., Room 736 Arlington, VA 22209 |
| Employer Phone Number: | 703-657-0566 | 703-746-2645 |

If any of above information is not provided because of an exception pursuant to §20-60.3.4, state the exception: None exist.

5. Notice is hereby given that, pursuant to §20-124.2, support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever occurs first, and that the court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support.

6. Notice is hereby given that a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business, occupation or recreational activity issued to the obligor by the Commonwealth of Virginia to a parent as provided in §63.2-1937 upon the occurrence of a delinquency for a period of ninety (90) days or more or in an amount of \$5,000.00 or more. Neither party holds such a license.

7. **SUPPORT:**

A. **SPOUSAL SUPPORT:** As more fully set forth in Paragraph 18 of the parties' May 19, 2016, Marital Settlement Agreement, each party waives spousal support and maintenance from the other, now and in the future.

B. **CHILD SUPPORT:** Commencing July 1, 2016, and on the first day of each month thereafter until further Order of this Court, Husband shall pay to Wife as child support the monthly sum of Two Thousand Dollars (\$2,000.00). The parties' agreement as to support

and expenses for the child is set forth in Paragraphs 20, 21 and 22 of their May 19, 2016, Marital Settlement Agreement, as follows:

20. CHILD SUPPORT.

A. The Parents acknowledge their mutual duty to provide for the support and maintenance of the child. The Parents agree that Father shall pay child support to Mother as follows:

Commencing July 1, 2016, and continuing on the first day of each month thereafter, without demand or deduction, Father shall pay to Mother as child support the sum of TWO THOUSAND DOLLARS (\$2,000.00), which sum has been agreed to by the Parties. The Parties have reached this agreement in consultation of the Virginia Child Support Guidelines, but without specific findings as to their respective incomes, and without prejudice at any future determination. The Parties have agreed, as further set forth above, that they shall each be responsible for the costs of the work related child care for Justin for the period that they have custody of Justin in the summer (Father, first half; Mother, second half).

Support shall continue to be made at the rate set forth herein until modified by mutual written agreement of the Parties incorporated into a court order, or as further determined by a court of competent jurisdiction in accordance with then-existing Virginia law. The Parties acknowledge that either party may request a modification to the child support payable between the parties upon a material change of circumstances.

B. The Parties acknowledge that pursuant to the Virginia Code, child support is payable for a child until that child reaches the age of eighteen, dies, marries, or is otherwise emancipated, whichever event first occurs. However, support shall continue past age eighteen if the minor child is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of a parent receiving support, until the child reaches age nineteen or graduates high school, which ever first occurs.

C. For good cause shown, Father shall pay his child support obligation by direct deposit to Mother to such account as she designates.

21. PRIVATE SCHOOL EXPENSES.

A. The Parties acknowledge that their son, Justin, is enrolled in and attending Congressional School Schools of Virginia (hereinafter, "Congressional"). The Parties agree that the child will continue to attend Congressional through the Eighth grade, unless they otherwise mutually agree, in writing. Husband agrees to be solely liable for and pay tuition, fees and costs for Justin's attendance at Congressional. Husband's agreement to pay for Congressional shall be without prejudice; nothing in this provision shall serve to require Husband to pay for any other private school, or any private school tuition after the Eighth grade.

22. COLLEGE EXPENSES.

A. Husband shall be responsible for the college costs for Justin, as set forth herein. For purposes of this Agreement, the term "college costs" includes, but is not limited to, tuition and other required enrollment or matriculation fees and charges; all

necessary attendant fees and expenses, whether charges for attendance in general or by virtue of enrollment in a special course or program; and room and board on campus. However, the Parties agree that Husband's liability for college costs shall be capped at then-current in-state levels for tuition, fees, room and board at the University of Virginia. Husband's responsibility for the costs and expenses set forth above shall be reduced/adjusted to take into account any gifts or payments by Husband's family or any trusts or investments established by Husband and/or his family, scholarships, grants, loans or work study payments received by or on behalf of Justin.

B. College costs shall be paid directly to any college, university, or appropriate third-party associated with the incurred cost as and when such costs are due. However, it is expressly agreed that in the event a child lives with a parent during all or any part of a college academic period in which the child is taking classes, there shall be no reimbursement to that parent for the child's room and board at their residence, unless the Parties otherwise agree.

C. Husband's obligation for payment of Justin's college costs shall terminate upon Justin attaining the age of 22.

D. For purposes of enforcement of this Agreement, Justin shall not be considered a third party beneficiary.

8. HEALTH CARE COVERAGE & UNREIMBURSED MEDICAL EXPENSES:

A. NOTICE INFORMATION: This Order contains a provision for health care coverage, including the health insurance policy information, for dependent children pursuant to §§20-108.1 and 108.2, if available at reasonable cost. And this Order contains a statement as to whether health care coverage is provided for a spouse or former spouse. The health insurance carrier providing coverage applicable to this Order is: Blue Choice HAS Bronze, Group ID 99#1. The coverage is provided as a benefit of Plaintiff/Husband's employment. This Order further contains a statement whether any unreimbursed medical expenses are to be paid by or reimbursed to a party pursuant to Subsections D and G of §20-108.2, and if such expenses are ordered, then the provisions governing how such payment is to be made.

B. FOR CHILD: As more fully set forth in Paragraph 23A of the parties' May 19, 2016, Marital Settlement Agreement, medical coverage for Justin shall be provided by Plaintiff/Husband as a benefit of his employment. Unreimbursed medical expenses incurred

by a party are to be reimbursed to that party within 30 days of receipt of documentation by the other party that such expenses have been incurred and paid, as more fully set forth below. The parties' Agreement with respect to health care coverage and unreimbursed expenses is set forth at Paragraph 23(A), (B), (C), (D), (E), and (F) of their Marital Settlement Agreement as follows:

A. Husband shall continue to maintain medical insurance for Wife until such time as a Final Order of Divorce is entered between them.

B. Husband shall continue to maintain medical insurance for the child for so long as he is eligible to be covered.

C. Commencing June 1, 2017, the Parties shall divide equally (50/50) any unreimbursed medical expenses for the child. Medical expenses shall include, but not be limited to, prescription medication, doctor-recommended vitamins and supplements, prosthetics, orthodontics, and mental health or developmental disabilities services including without limitation services provided by a social worker, psychologist, psychiatrist, counselor, or therapist. Husband shall be solely (100%) responsible for any unreimbursed medical expenses for the child prior to June 1, 2017.

D. Commencing June 1, 2016, Husband shall be solely (100%) responsible for any reasonable and necessary unreimbursed dental or vision expense for the child.

E. In the event that Wife pays for such an unreimbursed medical, dental or vision expense, she shall provide Husband with documentation evidencing that such expense was incurred, and Husband shall then provide within Thirty (30) days of receipt of that documentation, his reimbursement of such expense to Wife.

F. The Parties' obligation under Paragraph 23C, 23D and 23E shall continue for the child for so long as there is an obligation of child support.

C. FOR SPOUSE OR FORMER SPOUSE: There is no obligation to provide health coverage for a spouse or former spouse upon entry of this Final Order of Divorce.

9. **ARREARAGES:** There are no support arrearages as of July 1, 2016; and it is further

ORDERED and ADJUDGED as follows:

10. If at any time child support payments are ordered to be paid through the Department of Social Services or directly to a party, and unless the Court for good cause shown orders otherwise, the parties shall give each other and the Court, and, when payments

are to be made through the Department, the Department of Social Services at least thirty (30) days' written notice, in advance, of any change of address and any change of telephone number within thirty (30) days after the change. Further, because support payments are to be paid directly to Wife, the parties shall give each other and this Court, at least 30 days advance written notice of any change in address and any change in telephone number within 30 days after the change.

11. If at any time child support payments are ordered to be paid through the Department of Social Services, the party with the support obligation shall keep the Department of Social Services informed of the name, address and telephone number of his current employer, or if at any time payments are ordered to be paid directly to the party receiving support, the payor party shall keep the Court informed of the name, address and telephone number of his current employer;

12. If child support payments are ordered to be paid through the Department of Social Services or directly to the obligee, and unless the court for good cause shown orders otherwise, the parties shall give each other and the court and, when payments are to be made through the Department, the Department of Social Services at least 30 days' written notice, in advance, of any change of address and any change of telephone number within 30 days after the change.

13. The separate amounts due to each person under this Order for child and/or spousal support, are set forth in this Order;

14. Notice is hereby given that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Pursuant to Virginia Code Section 20-78.2, interest shall accrue on the arrearage at the

judgment rate as established by Virginia Code Section 6.2-302 unless the obligee, in a writing submitted to the court, waives the collection of interest.

15. Notice is hereby given that on and after July 1, 1994, the Department of Social Services may, pursuant to Chapter 19 of Title 63.2 of the 1950 Code of Virginia, as amended, and in accordance with Section 20-108.2 and Section 63.2-1921 of the 1950 Code of Virginia, as amended, initiate a review of the amount of support ordered by any Court.

16. If any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount due (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid.

17. Notice is hereby given that, in cases enforced by the Department of Social Services, the Department of Motor Vehicles may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings; and, it is further

ORDERED and ADJUDGED that this Court shall retain jurisdiction to enter any orders necessary to enforce, modify, or carry out any orders of this Court pursuant to §20-107.3K, 1950 Code of Virginia, as amended, to ensure that the provisions of the parties' Agreement, are carried out; and, it is further

ORDERED and ADJUDGED that pursuant to § 20-124.5, Code of Virginia, as amended, the parties shall provide each other and the Court with thirty (30) days advance written notice of their intent to relocate and their intended change of address; and, it is further

ORDERED and ADJUDGED that in accordance with the provisions of §20-111.1 of the 1950 Code of Virginia, as amended, the following information is provided:


Beneficiary designations for any death benefit, as defined in subsection B of § 20-111.1 of the Code of Virginia, made payable to a former spouse may not be revoked by operation of law upon the entry of a final decree of annulment or divorce. If a party intends to revoke any beneficiary designation made payable to a former spouse following the annulment or divorce, the party is responsible for following any and all instructions to change such beneficiary designation given by the provider of the death benefit. Otherwise, existing beneficiary designations may remain in full force and effect after the entry of a final decree of annulment or divorce.

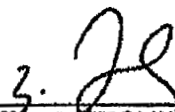
ENTERED this 20th day of September, 2016.


JUDGE

SEEN & AGREED:

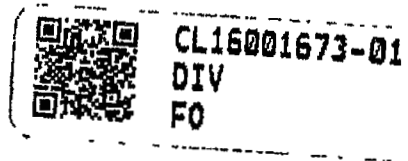
POWELL PIPER RADOMKSY, PLLC

By: 
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CL 16001673-01

FILED by Arlington County Circuit Court
09/09/2019



VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

JUSTIN POTTER WILSON, JR.,

Plaintiff,

v.

ANNA VLADIMIROVNA WILSON,
(f/k/a Anna Nikolaeva Wilson)

Defendant.

Case No. CL 16-1673-01

CUSTODY ORDER

THIS CAUSE CAME before the Court on August 19-21, 2019 for a full evidentiary hearing upon Defendant's Verified Emergency Motion to Modify Child Custody and Visitation and Plaintiff's Motion to Modify Custody & Visitation of the minor child, Justin Potter Wilson III (hereinafter the "Child"), age 10, born September 1, 2008; and

SAP / MR

IT APPEARING TO THE COURT that after carefully considering each of the factors in Virginia Code Section 20-124.3, affording each the appropriate weight, given the record in this case, the testimony presented, including the demeanor and credibility of the respective witnesses which the Court heard and observed over a period of three (3) days of testimony, and the exhibits introduced into evidence; that, for the reasons set forth in the Court's ruling on August 23, 2019, a copy of which is attached hereto and made a part of this Custody Order below,

IN CONSIDERATION WHEREOF, it is hereby ORDERED AND ADJUDGED:

(1) Transcript. The transcript of this court's ruling of August 23, 2019 is attached hereto and incorporated by reference into this order.

*Custody Order
Wilson v. Wilson
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EXHIBIT B

(2) Defendant's ("Mother's") Verified Emergency Motion to Modify Child Custody and Visitation is granted. Plaintiff's ("Father's") Motion to Modify Custody & Visitation is denied. The Court find that it is Father's conduct, not Mother's conduct, that brings this matter before the Court. The Court further finds that the custody and visitation schedule set forth in the parties' May 19, ²⁰¹⁶~~2019~~ Marital Settlement Agreement shall be modified as follows. SAP / AL

(3) Legal Custody. Defendant ("Mother") and Plaintiff ("Father") shall continue to share joint legal custody of the Child. In the event that the parties cannot reach agreement, then Mother shall have final authority to make decisions on behalf of the Child.

(4) Physical Custody. Commencing August 26, 2019, Mother shall have primary physical custody of the Child.

(5) Visitation. Commencing August 26, 2019, Father shall have visitation with the Child every other weekend beginning after school on Friday (or 4:00 p.m. if there is no school) until Monday night at 7:00 p.m. Father's alternating weekends shall begin on Friday, September 6, 2019.

(6) Summer Visitation. The parties shall have additional custodial time with Justin during his summer vacation from school as follows:

A. Father shall have two (2) uninterrupted weeks with the Child during the month of June. That fourteen (14) day period shall commence on a Sunday at 10:00 a.m. and end on a Sunday at 7:00 p.m. Father shall also have one uninterrupted week in each of the months of July and August from 10:00 a.m. Sunday until 7:00 p.m. the following Sunday. Mother shall not contact the Child during this time or schedule any activities for him.

B. Mother shall have two (2) uninterrupted weeks with the Child during the Child's summer vacation from school, which can be either in July or August. That fourteen (14) day period shall commence on a Sunday at 10:00 a.m. and end on a Sunday at 7:00 p.m. Father shall not contact the Child during this time or schedule any activities for him.

C. The parties shall provide a written notice to each other, electronic mail being sufficient, of the dates of their respective weeks with the Child on or before ^{May 1} ~~April 15~~ each year. SAP / MK

To the ^{extent} ~~extend~~ these dates conflict with each other, Mother's dates shall have priority in 2020 and all even-numbered years thereafter and Father's dates shall have priority in 2021 and all odd-numbered years thereafter.

Neither party shall schedule his/her summer custody time during the other parent's holiday/birthday.

(7) Parents' Birthdays. The Child shall spend parents' birthdays with the respective parent. The parent celebrating the birthday can pick the Child up the night before at 7:00 p.m. and return the child to school the morning after the birthday. If the morning after the birthday falls on a weekend, the Child shall be returned no later than 10:00 a.m., unless it is that parent's custodial weekend. Neither parent shall call the Child while the Child celebrating the other parent's birthday.

(8) Child's Birthday. Commencing 2019 and every odd-year thereafter, the Child shall spend his birthday with Father. Commencing 2020 and every even-year thereafter, the Child shall spend his birthday with Mother. The parent celebrating the Child's birthday can pick the Child up the night before at 7:00 p.m. and return the child to school the morning after the Child's birthday. If the morning after the Child's birthday falls on a weekend, the Child shall be returned no later than 10:00 a.m., unless it is that parent's custodial weekend. The parent who is not with the Child on his birthday may call the Child at a time to be agreed upon by the parties.

(9) Holidays, Spring Break, and Winter Break. Except as modified herein, the parties shall continue to share custody of the Child on holidays, spring break and winter break as set forth SAP / MK in their May 19, ²⁰¹⁶ ~~2019~~ Marital Settlement Agreement.

(10) Telephone Calls.

A. Father shall not call the Child during Mother's custodial time except Father may call the Child between the hours of 8:00 p.m. and 8:30 p.m. every Tuesday, Wednesday, and Thursday evening when the child is in Mother's custody. Father's calls to the Child shall be limited to half an hour. Mother will ensure that the Child is available to speak with Father during this time. SAP / MK

Mother shall not call the child during Father's regular weekend custodial time except as provided in this Order.

Neither parent shall hang up on the non-custodial parent during that parent's call with the child, unless profanity is used in the call with the child.

B. Each parent will be permitted one half-hour call with the Child on the following holidays: New Year's Day, Thanksgiving, and Christmas Day.

C. The parents shall not call the Child on any other holiday when the Child is with the custodial parent and will be permitted one (1) call with the Child during spring and one (1) call with the Child during winter break during the other parent's custodial time.

D. All telephone calls with the Child may be recorded at the option of the custodial parent without warning, and such recording will be deemed consensual on the part of the recorded party.

(11) Camps and Extracurricular Activities. Neither parent shall schedule any camps or other activities for the Child during other parent's custodial time. Mother will advise Adam J. Sowa, Ph.D. or any other licensed therapist treating the Child at that time regarding any camp Mother intends to register the Child in during the summer prior to registration and that therapist will advise Mother if the Child expresses any concerns with any camps proposed. Mother will forward via electronic mail to Father invitations to birthday parties or other events that occur during Father's custodial time and Father shall have sole authority to decide whether the Child will attend.

(12) Tennis Lessons. The Child may attend one (1) tennis lesson with Michael Retta ("Mr. Retta") each week during Mother's custodial time. Said lesson shall be scheduled directly between Mother and Mr. Retta. Mother will bring the Child to and from the lesson. Father shall arrange for payment to Mr. Retta in accordance with any financial Father and Mr. Retta reach.

(13) Travel. Each parent will give the other parent 24-hour notice, electronic mail being sufficient, of his/her intention to take the Child on a trip outside of the D.C. Metropolitan area, providing the time and dates of travel, destinations and persons traveling with the parent and the Child. Unless the travel dates include New Year's Day, Thanksgiving, or Christmas Day, the non-custodial parent shall not call the Child during the travel dates.

(14) Therapy. Father shall continue his current therapy ^{with a therapist of his choice} and shall also complete anger management therapy within six (6) months of the date of this Order. Father shall also engage in family counseling with the Child and coordinate the counseling with Adam J. Sowa, Ph.D. or any

other licensed therapist treating the Child at that time. Mother shall engage in family counseling with the Child and coordinate the counseling with Adam J. Sowa, Ph.D. or any other licensed therapist treating the Child at that time.

(15) Neither parent shall make derogatory or disparaging comments about the other parent or the activities that parent has arranged for the Child. Neither parent shall use profanity in conversations with the Child or with the other parent.

(16) Attorney's Fees. The Court finds that the award of attorney's fees to Mother is supported by the record. Father shall pay the sum of ^{Fifty Three} ~~Sixty Four~~ Thousand Four Hundred ^{Thirteen} ~~Eleven~~ ₂₇ and ^{\$53,413.27} ~~52/100 Dollars (\$64,411.52)~~ to Mother as and for reimbursement of her attorney's fees within

AT Mr. ~~thirty (30) days of the date of this Order.~~ This amount shall be paid based on the following schedule: a) \$17,804.42 is due and payable on or before November 6, 2019; (17) 30 Day Notice. Pursuant to Section 20-124.5 of the Code of Virginia, 1950, as amended, thirty (30) days advance written notice must be given to the Court and the other party

by any party intending to relocate and of any intended change of address. Such notice shall provide the Court and the other party of the intended date of change of address, the specific street, route address, city or county, state and zip code of the intended new address. Such written notice shall be mailed to the Court at the following address: Clerk of the Court, Circuit Court of Arlington County, 1425 N. Courthouse Road, Arlington, Virginia 22201, and shall certify the date that such information was mailed or otherwise delivered to the other party.

IT IS FURTHER ORDERED that the Clerk of the Court may forthwith issue certified copies of this Order to Counsel of Record.

ENTERED this 4th day of September, 2019.


Circuit Court Judge


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b) \$17,804.42 is due and payable on or before January 6, 2020; and (c) \$17,804.42 is due and payable on or before March 6, 2020.

SEEN: AND OBJECTED TO the Court's finding that the current

KUBLAN KHAN PLC

By:



ANDREI J. KUBLAN (VSB No. 73120)
Counsel for Defendant/Mother
6521 Arlington Blvd., Suite 201
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Facsimile: (703) 854-1083
Email: andrei@kublankhan.com
Counsel for Defendant (Mother)

holiday schedule as set forth
in May 19, 2016 Marital Settlement
Agreement is appropriate,
considering the Court's ruling
granting primary physical
custody to Mother w/every
other weekend to Father.

SEEN: AND OBJECTED TO FOR THE FOLLOWING REASONS: A

HICKS CRANDALL JUHL, PC

By:


SARAH ANN PIPER (VSB 47290)
Counsel for Plaintiff/Father
Three Flint Hill
3201 Jermantown Road, Suite 200
Fairfax, Virginia 22030
Telephone: (703) 691-4848
Facsimile: (703) 359-0197
sarah@hcj-law.com
Counsel for Plaintiff (Father)

*① The Court's finding that Defendant
and her witnesses were credible was
an abuse of discretion.

② The Court failed to take into account
Plaintiff's efforts and active and
involved ~~part~~ role in effectuating
ADHD behavioral modifications for
the child; which evidence was
provided by plaintiff, expert Sauer,
witness Sore and Witness Retta.
This was an abuse of discretion,
as the court did not properly consider
this evidence in respect to 20-124.3(1),
20-124.3(3) and 20-124.3(4).

③ The court's findings in respect to
Defendant's psychological evaluation
and the weight given thereto was
erroneous and an abuse of discretion
in considering 20-124.3(1).

④ The court's failure to consider Defendant's
interference in Plaintiff's calls with the
child was an abuse of discretion/failure to consider
20-124.3(6)

V I R G I N I A:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

JUSTIN POTTER WILSON, JR.,)

Plaintiff,)

v.) CASE NO. 16-1673-01

ANNA VLADIMIROVNA WILSON,)

Defendant.)

Circuit Courtroom 10C
Arlington County Courthouse
Arlington, Virginia

Friday, August 23, 2019

The above-entitled matter came on to be heard before the HONORABLE JUDITH L. WHEAT, Judge, in and for the Circuit Court of Arlington County, in the Courthouse, 1425 North Courthouse Road, 10th Floor, Arlington, Virginia, beginning at 4:15 o'clock p.m.

APPEARANCES:

On Behalf of the Plaintiff:

Sarah A. Piper, Esquire
HICKS CRANDALL JUHL, P.C.
3201 Jermantown Road
Suite 200
Fairfax, Virginia 22030

On Behalf of the Defendant:

Andrei J. Kublan, Esquire
KUBLAN KHAN, PLC
6521 Arlington Boulevard
Suite 201
Falls Church, Virginia 22042

Verbatim Reporting, LLC
14723 Braddock Road
Centreville, Va 20120
703 932 0654

1 P R O C E E D I N G S .

2 THE COURT: Good afternoon.

3 THE COURT REPORTER: Good afternoon.

4 THE COURT: Do I need to swear you again? Ms.
5 Court Reporter, should I swear you again?

6 THE COURT REPORTER: Oh, yes.

7 (Whereupon, the court reporter was duly sworn by
8 the Court.)

9 THE COURT: Good afternoon, Counsel, Mr. and
10 Mrs. Wilson.

11 This case comes before the Court on the
12 Defendant's emergency motion to modify custody and the
13 Plaintiff's cross motion to modify custody.

14 Upon consideration of the record in this case,
15 the testimony presented, including the demeanor and
16 credibility of the respective witnesses, review of the
17 exhibits introduced into evidence, and having afforded the
18 weight the Court deems appropriate to each, the Court
19 finds that there is sufficient evidence that there is a
20 material change in circumstances regarding the custody of
21 the parties' minor child, Justin Wilson.

22 Specifically, the Court finds that the father,

1 Justin Potter Wilson, Jr., has engaged in behavior over a
2 period of months in which he has disparaged the mother,
3 Anna Wilson, in front of Justin, who is 10 years old, used
4 profane and wholly inappropriate language in talking with
5 the child about his mother on numerous occasions, and
6 engaged in an ongoing and continuous course of conduct
7 designed to turn the child against his mother and
8 interfere with Ms. Wilson's custody and visitation rights
9 which the parties mutually agreed would govern the
10 relationship at the time of their divorce.

11 This conduct violates the Marital Separation
12 Agreement between the parties and has caused severe stress
13 and anxiety to the minor child, as attested by the child's
14 therapist, Dr. Sowa.

15 In determining custody and or visitation for a
16 minor child, Virginia Code 20-124.3 requires the Court to
17 consider the following factors.

18 1. The age and physical and mental condition of
19 the child, giving due consideration to the child's
20 changing developmental needs.

21 Justin is 10 years old. He will turn 11 next
22 month and entering the fifth grade. He has been diagnosed

1 with attention deficit hyperactivity disorder -- ADHD --
2 and has documented difficulty with impulsive behavior,
3 executive functioning and decision making, including
4 processing information, following instructions, and
5 understanding the consequences of his words, actions and
6 choices.

7 Evidence regarding Justin's diagnosis and
8 functioning was provided by Dr. Sowa, a clinical
9 psychologist and Justin's treating therapist, and Mr.
10 Sere, Director of Lower Education at Commonwealth Academy,
11 Justin's elementary school.

12 It is undisputed that at various times over the
13 past twelve months Justin has presented as depressed,
14 anxious and or stressed, specifically, one, when
15 transitioning between his parents' custodial time; two,
16 prior to and during phone conversations with Mr. Wilson
17 during mother's custodial time; and, three, in the
18 presence of Mother, after returning from Father's
19 custodial time, as evidenced by the testimony of
20 Defendant's witnesses Galina Spivak, Olga Bogatova and
21 Maxim Usubyan, and Plaintiff's witnesses, Michael Retta
22 and Dr. Sowa.

1 Justin has been described as otherwise healthy,
2 although small for his age. He enjoys playing tennis and
3 other sports, is an avid reader, and reads and speaks in
4 both Russian and English.

5 When in the company of one parent or the other,
6 he presents as happy, warm and loving toward that parent.
7 He has been described by numerous witnesses as sociable
8 and having a varied group of friends, including both
9 childhood friends and classmates.

10 Dr. Sowa testified that Justin is making
11 progress in therapy addressing his ADHD. And Mr. Sere
12 testified that his grades at Commonwealth Academy have
13 been good.

14 The second factor. The age and physical and
15 mental condition of each parent.

16 Addressing first Ms. Wilson, Ms. Wilson is a 46-
17 year-old female who has been diagnosed with insomnia. A
18 considerable amount of testimony was presented to the
19 Court regarding Ms. Wilson's prescribed use of Xanax for
20 insomnia during the period 2015 to the present, and its
21 effect on her ability to be an appropriate custodian for
22 Justin.

1 Ms. Wilson's primary physician, Dr. Maria
2 Natividad, who was accepted by the Court as an expert in
3 internal medicine, testified that she has been Ms.
4 Wilson's doctor since June, 2009, and has been treating
5 Ms. Wilson for stress related insomnia since approximately
6 2015 when Ms. Wilson and Mr. Wilson separated.

7 Dr. Natividad originally prescribed .5
8 milligrams of alprazolam, otherwise known as Xanax, for
9 Ms. Wilson which she described as the lowest dose. Since
10 that time Dr. Natividad has increased Ms. Wilson's
11 prescription to one and a half to two milligrams daily to
12 be taken before bed.

13 Dr. Natividad explained that it is normal over
14 the course of time to increase the dosage of Xanax when
15 used for insomnia, as the patient becomes more accustomed
16 to the drug. She testified that Ms. Wilson is still on a
17 low dosage of Xanax, given the number of years she has
18 been on the medication.

19 Recognizing the potential for alprazolam to be
20 abused, Dr. Natividad testified that she meets with Ms.
21 Wilson every 3 to 6 months and reviews her use of
22 alprazolam to ensure it is still medically appropriate.

1 She also reviewed Ms. Wilson's prescription
2 report and confirmed that Ms. Wilson's usage was
3 consistent with the medication that had been prescribed.

4 Because of the amount of time that Ms. Wilson
5 has taken the drug, she has twice tried to change Ms.
6 Wilson to a different medication, but neither was found to
7 be effective in addressing Ms. Wilson's medical condition.

8 Dr. Natividad opined to a reasonable degree of
9 medical certainty that Ms. Wilson is not addicted to
10 alprazolam and that her usage of the drug is medically
11 appropriate.

12 Dr. Natividad's testimony was largely
13 corroborated by the testimony of Plaintiff's witness,
14 George Young, a clinical social worker who was accepted by
15 the Court as an expert in the field of substance abuse
16 counseling and testing.

17 Mr. Young is not a medical doctor and has never
18 prescribed alprazolam for any medical condition. He has
19 never met with Ms. Wilson or conducted any substance abuse
20 evaluation of her.

21 He has reviewed the medical records admitted
22 into evidence and Ms. Wilson's deposition testimony, and

1 agreed that Ms. Wilson's use of Xanax appeared consistent
2 with what had been prescribed by Dr. Natividad. He also
3 agreed that use of one and a half to two milligrams of
4 alprazolam per day would not in itself indicate a
5 dependency on the drug.

6 He opined that as a substance abuse
7 professional, not a medical professional, he had a concern
8 about whether Ms. Wilson had a dependency on the
9 medication, given the length of time Ms. Wilson had used
10 the medication and the amount prescribed, but again
11 acknowledged he had not conducted a personal evaluation of
12 Ms. Wilson and had no medical training -- no formal
13 medical training.

14 He also opined that, given these factors, any
15 decision for her to stop using alprazolam needed to be
16 done gently to avoid potential medical complications.
17 Since he had not personally evaluated Ms. Wilson, he could
18 not render any further opinions regarding the
19 appropriateness of Ms. Wilson's alprazolam use.

20 Mr. Young described a number of possible side
21 effects of alprazolam that he has observed in his clinical
22 practice on the part of individuals who have developed a

1 chemical dependency to the drug, including irritability,
2 mood swings and difficulty operating motor vehicles. He
3 could not opine whether Ms. Wilson experienced any of
4 these side effects from her alprazolam use.

5 Mr. Young also agreed that these side effects
6 would be less of an issue for a person taking the
7 medication before going to sleep, as does Ms. Wilson,
8 since the drug would likely have flushed out of a person's
9 system by morning.

10 Dr. Natividad testified that she had not
11 observed any adverse indications from Ms. Wilson's use of
12 the drug. And Ms. Wilson's fact witnesses confirmed that
13 they had never observed any behavior suggesting she was
14 abusing drugs or alcohol.

15 I found the testimony of Ms. Wilson's fact
16 witnesses to be credible.

17 Dr. Samenow, the independant mental health
18 expert appointed by the Court, testified that he was aware
19 that Ms. Wilson had an issue with sleeping and had been
20 prescribed Xanax. He testified that he was not a medical
21 doctor and, therefore, was not qualified to comment on
22 whether the Xanax dosage medically prescribed for Ms.

1 Wilson was appropriate.

2 He agreed that the use of Xanax, even pursuant
3 to a doctor's prescription, could be a cause of concern if
4 there was evidence that Ms. Wilson was taking the drug in
5 an amount that exceeded what had been prescribed on an
6 ongoing basis. No such evidence has been tendered to the
7 Court.

8 The Plaintiff introduced photographs from
9 Defendant's Facebook page showing her drinking a glass of
10 wine on her birthday and at a friend's birthday
11 celebration, which was consistent with Ms. Wilson's
12 testimony that she occasionally drinks one or two glasses
13 of wine on social occasions.

14 Dr. Natividad testified that if Ms. Wilson had a
15 glass of wine and took a Xanax at the same time, she would
16 feel extremely drowsy. There was no evidence presented
17 that Ms. Wilson ever did this.

18 The Court had ample opportunity to observe Dr.
19 Natividad's demeanor while on the witness stand and
20 reviewed a copy of her curriculum vitae, which was entered
21 into evidence. The Court finds Dr. Natividad's testimony
22 to be credible.

1 The Court further finds, based on the totality
2 of the evidence, there is no evidence that Ms. Wilson has
3 a substance abuse problem or that her use of Xanax
4 interferes with any of her ongoing daily activities.

5 Dr. Samenow conducted psychological testing
6 which also contained no indication of any psychopathology
7 on the part of Ms. Wilson. Dr. Samenow interviewed Ms.
8 Wilson and a number of Ms. Wilson's colleagues, including
9 Galina Spivak and Frederico Delasobera, who both testified
10 at trial and were subject to cross examination by counsel
11 for Mr. Wilson.

12 Dr. Samenow found that Ms. Wilson is reflective
13 and appeared willing to identify and discuss shortcomings.
14 She is generally a cheerful person but not ambitious or
15 competitive.

16 She self-reported difficulty making decisions
17 because she is "full of doubts". Based on his evaluation,
18 Dr. Samenow found that Ms. Wilson had some general anxiety
19 as well as difficulty sleeping, both situational and
20 stemming from the divorce.

21 His professional opinion, therefore, is that Ms.
22 Wilson has no diagnosable mental disorder.

1 Ms. Wilson appears otherwise healthy and engages
2 in a variety of activities, including hiking, camping,
3 travel, cooking and reading.

4 Mr. Wilson. Mr. Wilson is a 46-year-old male
5 who self-reports that he has undiagnosed ADHD. Dr.
6 William Zuckerman, the independent mental health expert
7 appointed by the Court, found the following with respect
8 to Mr. Wilson.

9 "He can be assertive" -- and this is a quote --
10 "He can be assertive, even aggressive at times, not
11 necessarily physical, in his interpersonal relationships,
12 but his social skills are good. He is able to work
13 collaboratively with others and he is likely in most
14 situations to act in a conventional way.

15 "He can be oppositional at times but he is also
16 likely to be quite perseverant in pursuit of his goals
17 with that pursuit having yielded positive results in the
18 past.

19 "Mr. Wilson is stressed by the current
20 circumstances so that he is likely to be experiencing
21 tension and some helplessness along with a temporary
22 increase in irritability. However, his coping skills, in

1 general, are within the normal range. He may have some
2 deficits in understanding others, but they are balanced by
3 a level of interest in others and an ability to develop
4 warm and intimate relationships. Moreover, his thinking
5 is likely to be logical and coherent and his day to day
6 judgments are likely to be within the normal range.

7 "Family issues can create some stress for Mr.
8 Wilson, perhaps due to current and past events, but he is
9 quite child focused with a strong and positive view toward
10 his son and a normal positive embrace of the parental
11 position.

12 "Despite the current stress, there are no long-
13 term predictions of difficulty with anxiety or depression.
14 Diagnostically he would fit the category of having a
15 situational adjustment disorder with anxiety.

16 "He has, according to testing, some compulsive
17 personality features, but he has no diagnosable axis two
18 disorders and no other axis one disorder. There are no
19 findings that would preclude him from being able to parent
20 effectively," unquote.

21 Dr. Zuckerman's report further notes that when
22 Justin was about -- Justin, the child -- was about 3 or 4,

1 Mr. Wilson described that his drinking had become "a
2 problem" and that he was having as many as 5 beers a night
3 for a period of about 4 years.

4 During that time he "remembers having driven a
5 car in situations -- sometimes taking Zhenya" -- another
6 name for Justin -- "to activities wherein he might have
7 been legally considered inebriated. He feels he was
8 somewhat less available to Zhenya during this time."

9 Mr. Wilson testified that he has not had a drop
10 of alcohol in over a thousand days. Mr. Wilson appears to
11 be in good physical health. He is a vegetarian and works
12 out daily.

13 3. The relationship existing between each
14 parent and Justin, including positive involvement and
15 ability to accurately assess and meet the emotional,
16 intellectual and physical needs of the child.

17 Ms. Wilson. The weight of the credible evidence
18 shows that Ms. Wilson's relationship with Justin when he
19 is in her presence without interference from Mr. Wilson is
20 warm, loving and caring.

21 Ms. Wilson engages Justin in numerous age
22 appropriate activities, including soccer, swimming, music

1 lessons, reading in both Russian and English, cooking,
2 amusements, cultural activities, outings with friends,
3 hiking, camping, birthday parties, and travel.

4 Family friends who have known Ms. Wilson and
5 Justin since before the divorce testified as to the
6 positive nature of their relationship and the types of
7 activities that they do together. Justin spends time in
8 the company of his mother and his childhood friends when
9 he is with his mother, as well as at a wide variety of
10 activities.

11 He also plays tennis with one of his coaches,
12 Fred Delasobera, on Sunday mornings, who testified that
13 Justin's relationship with his mother was normal. Mr.
14 Delasorbera was Justin's primary tennis coach until
15 December 2018, when Mr. Wilson hired a different coach,
16 Michael Retta, for Justin. Mr. Retta only coaches Justin
17 when he is with his father.

18 Ms. Wilson's mother, Olga Bogatova, spends
19 summers in the United States and provided testimony
20 regarding the nature of Ms. Wilson's relationship with
21 Justin. She observed that Justin appeared happy when he
22 was in his mother's house, except when he expected his

1 father to call. She testified that sometimes during these
2 calls, Justin suddenly starts screaming at Ms. Bogatova
3 and Ms. Wilson, saying derogatory things to them.

4 The Court finds significant the fact that after
5 these calls finish Justin apologizes to his mother and
6 grandmother for his behavior, recognizing that the
7 behavior is not appropriate.

8 The credible evidence shows that in the last
9 several years, transitions between Mother and Father's
10 custodial time have been very difficult for Justin.

11 Mr. Retta, Justin's tennis coach, who plays
12 tennis with Justin immediately upon his return to Mr.
13 Wilson on Sunday evenings, and several of Ms. Wilson's
14 friends who routinely spend time with the family on Sunday
15 afternoons, testified that Justin is noticeably anxious in
16 the time before the transition between the two households
17 or lethargic and sad afterwards.

18 Ms. Wilson testified that she generally needs to
19 end activities about an hour before Justin is returned to
20 his father on Sunday. And she spends this time alone with
21 him sitting with him, talking with him, and hugging him as
22 he prepares to go to his father's home.

1 Likewise, Justin has, on at least three
2 occasions before returning to his mother's home,
3 physically resisted leaving his father's company until his
4 father was no longer present.

5 At some point between the summer of 2017 and
6 2018, Justin's attitude towards his mother changed.

7 In an email exchange between Ms. Wilson and Mr.
8 Wilson, which was admitted as Plaintiff's Exhibit 12, Ms.
9 Wilson noted that "Zhenya seems more resentful of me and
10 blames me for everything whenever he gets upset. It is
11 especially noticeable when he first comes to be with me."

12 In that same email Ms. Wilson stated that she
13 was concerned about Justin's well-being, stating, "He
14 needs reassurance from you" -- Mr. Wilson -- "that it's
15 okay to feel good with both parents. Since you have a
16 great deal of influence on him and he takes your opinions
17 very personally, he would clearly benefit from you cutting
18 back on criticizing him and his activities with me. We
19 need to prepare him and ourselves for his pre-teen and
20 teen years and need to help him work on the coping
21 mechanisms and build his confidence."

22 Mr. Wilson acknowledged that he likely did not

1 respond to Ms. Wilson's email.

2 On numerous occasions in the fall and winter of
3 2018 and 2019, Ms. Wilson overheard Mr. Wilson using
4 profane and derogatory language when discussing her in
5 front of Justin.

6 She also heard him belittling the child's
7 activities with her, including swimming, guitar lessons
8 and going to the trampoline park, and telling the child to
9 disobey his mother.

10 During the mother's custodial time in winter
11 2018, she overheard Mr. Wilson instructing Justin to
12 refuse to go on a trip to Disney World with her and
13 instead to leave the house and go to his father's home.

14 Mr. Wilson admitted to Dr. Zuckerman that there
15 were times when "he has expressed his dissatisfaction
16 about Ms. Wilson to Justin," including that she does not,
17 "support his strong interest in tennis."

18 He also told Dr. Zuckerman that Justin knows
19 "that his father disapproves of his mother's behavior and
20 demonstrates dissatisfaction with Ms. Wilson at
21 transition."

22 Mr. Wilson stated unequivocally on direct

1 examination that he has said "reprehensible things about
2 the mother in front of the child."

3 Although he was noticeably less candid on
4 cross-examination, he did not deny the statements
5 attributed to him by Ms. Wilson that he used profanity
6 when describing her to the child, that he told the child
7 to disobey the mother, and that he disparaged the child's
8 activities with the mother, including going to the
9 trampoline park and to Disney World.

10 As to the content of these conversations, after
11 hearing the testimony of both Ms. Wilson and Mr. Wilson,
12 and watching the demeanor of the two in the courtroom, the
13 Court finds Ms. Wilson's testimony to be credible and Mr.
14 Wilson's testimony on cross-examination not credible.

15 The weight of the evidence establishes that
16 since the time of separation, Ms. Wilson has been aware of
17 Justin's need to maintain a relationship with his father
18 and has tried to navigate a coparenting relationship with
19 Mr. Wilson without success.

20 Ms. Wilson is responsive and appropriate in
21 matters involving Justin's school, takes him to medical
22 appointments and counseling, encourages him to play

1 tennis, even during her custodial time, and does not
2 interfere with Mr. Wilson's custodial time, going so far
3 as to find ways for Justin to talk with his father even
4 when the family is on a camping trip, on vacation, at the
5 park and on travel.

6 Plaintiff presented evidence of two occasions
7 when there did appear to have been a misunderstanding
8 regarding transfer dates and times on the part of Ms.
9 Wilson.

10 The Court finds that while Justin is with Ms.
11 Wilson, she provides both structured and unstructured time
12 as well as ongoing and varied physical activity. She also
13 engages Justin in social and creative activities and
14 intellectual pursuits, including birthday parties, trips
15 to the library, math, chess, reading in Russian and
16 English, cooking, music and theater arts.

17 Ms. Wilson and her mother both testified that
18 there is a clear routine followed in the home when Justin
19 is present. While the routine is different than what Mr.
20 Wilson follows, Dr. Sowa testified that Justin can adapt
21 to different routines in different households as long as
22 the routines within each household are consistently

1 followed in that household.

2 The Court found this testimony to be credible.

3 Mr. Wilson. The evidence also shows that when
4 Justin is with Mr. Wilson they appear to have a positive,
5 loving relationship.

6 This evidence was presented by Dr. Sowa, who has
7 seen Mr. Wilson interact with Justin, and Michael Retta,
8 the tennis coach who has spent approximately 8 to 10 hours
9 per week with Justin and Mr. Wilson since December of
10 2018. Mr. Sere also testified that Mr. Wilson's
11 interactions with Justin at school were all appropriate.

12 Mr. Wilson's interactions with Justin appear to
13 center around tennis and basketball. Justin plays every
14 day for two to two and a half hours during Mr. Wilson's
15 custodial time. Mr. Retta testified that he is paid
16 \$2,500 per week by Mr. Wilson to provide tennis lessons to
17 Justin and Mr. Wilson who is his largest single client.

18 Justin also plays basketball at the rec center
19 while Mr. Wilson works out nearby.

20 Mr. Wilson admitted that for one season he
21 allowed Justin to watch a Netflix series about a serial
22 killer.

1 Mr. Wilson testified that when school is not in
2 session, he and Justin also read and spend free time
3 together doing various activities.

4 Although Mr. Wilson emphasized that he had a
5 strict routine that he followed with Justin, Mr. Retta and
6 Mr. Wilson provided somewhat conflicting testimony
7 regarding that schedule.

8 While it appears that Mr. Wilson does love his
9 son, he admitted that he loathes Ms. Wilson.

10 The Court finds that the weight of the credible
11 evidence established that since at least the summer of
12 2018, Mr. Wilson has engaged in a course of behavior that
13 is negatively interfering with Ms. Wilson's relationship
14 with Justin.

15 The Court finds that this behavior is not
16 consistent with Justin's emotional needs, but instead
17 creates substantial stress for the child by forcing the
18 child to choose between his parents.

19 Mr. Wilson testified that he calls Justin every
20 day and talks for upward of a half an hour during Ms.
21 Wilson's custodial time.

22 During the school year Ms. Wilson has custodial

1 time only three nights per week. Ms. Wilson's testimony
2 is that the calls at times last an hour or longer and
3 often upset the child so much that he has a hard time
4 falling asleep.

5 Mr. Wilson expects to talk with Justin,
6 regardless of what he is doing. By his own admission he
7 becomes frustrated and upset if his call is not returned
8 almost immediately after it is made.

9 Various witnesses testified that Ms. Wilson
10 often has to go to great lengths to ensure that Justin is
11 able to communicate with Mr. Wilson when he calls and that
12 the calls are not only stress inducing for Justin, but
13 generate conflict between Justin and Ms. Wilson. As a
14 result of one such call while Justin was in Florida with
15 his mother, Justin jumped out of a car onto the side of a
16 busy road at night in the dark and ran from his mother,
17 putting himself and others in the car in real danger.
18 Justin can be heard on the video telling his father he has
19 to call him back and subsequently yelling at his mother
20 that she and the others in the car have to wait so he can
21 talk with his father.

22 During the 4-day trip to Florida, Mr. Wilson

1 constantly and repeatedly called and emailed Ms. Wilson
2 about talking with Justin, even though there was no
3 obvious need for Mr. Wilson to talk with the child while
4 he was on vacation in Florida.

5 Email communications introduced by Plaintiff's
6 Counsel, as well as testimony by Ms. Wilson, indicate that
7 Mr. Wilson has repeatedly threatened to stop providing
8 things to Justin that are important to him, such as tennis
9 lessons, in order to induce the child to do what Mr.
10 Wilson wants, including refusing to go on planned outings
11 and vacations with Ms. Wilson.

12 On the night prior to the Disney World trip, Mr.
13 Wilson not only attempted to convince the child to refuse
14 to go on the trip, but then physically drove over to the
15 mother's apartment and asked the concierge to go to the
16 apartment to perform a welfare check on the child in what
17 can only be viewed as an attempt to manufacture some
18 reason to keep the child from going on the trip.

19 After observing Mr. Wilson's demeanor on the
20 witness stand for almost 5 hours, the Court finds Mr.
21 Wilson's testimony to be, for the most part, not credible,
22 particularly regarding the events of December 29 through

1 January 2nd.

2 The Court finds that Mr. Wilson is willing to
3 support only those activities that he deems appropriate
4 for Justin -- primarily sporting activities and one on one
5 time with Mr. Wilson -- and actively attempts to undermine
6 those activities that Ms. Wilson deems important. He also
7 consistently seeks to impose his will on Justin, even when
8 he is with Ms. Wilson, and to create conflict with Ms.
9 Wilson when Mr. Wilson cannot get what he wants.

10 The Court finds these facts significant in
11 determining the best interest of the child.

12 4. The needs of the child, giving due
13 consideration to other important relationships of the
14 child, including, but not limited to siblings, peers and
15 extended family members.

16 Justin needs and wants the love and affection of
17 both parents, and as a general matter seems content when
18 dealing with either parent without the interference of the
19 other.

20 Justin is a high needs child. And routine and
21 structure are important to him. The credible evidence
22 supports that both parents provide structure in their

1 household. The structure is simply different in the two
2 households. However, as Dr. Sowa explained, Justin need
3 not have the same routine and structure with both parents.
4 He needs clear rules and routines for each individual
5 household which are consistently applied within that
6 household.

7 Justin appears to have a close relationship with
8 his maternal grandmother who he sees for several months
9 every year, friends he knows through his mother, friends
10 from school, and his tennis coach, Mr. Retta.

11 He apparently also has some friends he plays
12 basketball with at the community center, but there was no
13 evidence that Justin socializes with them outside of that
14 environment.

15 5. The role each parent has played and will
16 play in the future in the upbringing of the child.

17 Ms. Wilson testified that she has been Justin's
18 primary caretaker his entire life up to this point. Mr.
19 Wilson testified that he became Justin's primary caretaker
20 when Justin was 4 or 5 when Ms. Wilson returned to work.

21 While it is probable that Mr. Wilson took on
22 additional responsibilities for Justin's care when Ms.

1 Wilson returned to work, by Mr. Wilson's own admission, he
2 was drinking heavily during this time and likely not very
3 available to Justin.

4 Given the toxic relationship between the
5 parents, this Court cannot envision how both parents can
6 continue to play an equal ongoing supportive role in
7 Justin's life in the future.

8 6. The propensity of each parent to actively
9 support the child's contact and relationship with the
10 other parent, including whether a parent has unreasonably
11 denied the other parent access to or visitation with the
12 child.

13 The Court adopts the facts previously
14 articulated in evaluating this factor.

15 The Court finds that Ms. Wilson has demonstrated
16 an ongoing willingness to support Justin's contact and
17 relationship with his father and has not unreasonably
18 denied Mr. Wilson access or visitation with Justin.

19 The Court finds that Mr. Wilson has actively and
20 somewhat successfully undermined Ms. Wilson's relationship
21 with Justin and has actively interfered with Ms. Wilson's
22 access to and visitation with the child.

1 In addition to the testimony regarding Mr.
2 Wilson actively denigrating the mother's choices for the
3 child, as well as trying to impose Mr. Wilson's needs and
4 wants on Ms. Wilson's custodial time with the child, the
5 Court finds significant Mr. Wilson's statement to Dr.
6 Zuckerman that when Justin complains about issues with his
7 mother, Mr. Wilson agrees with the child, rather than
8 supporting Ms. Wilson.

9 The Court does not find evidence to support Mr.
10 Wilson's contention that Ms. Wilson has repeatedly
11 interfered with his ability to have reasonable contact
12 with his child.

13 7. The relative willingness and demonstrated
14 ability of each parent to maintain a close and continuing
15 relationship with the child and the ability of each parent
16 to cooperate and resolve disputes regarding the matters
17 affecting the child.

18 The Court adopts the facts previously
19 articulated in evaluating this factor. As already
20 described in substantial detail, the Court finds that Mr.
21 Wilson is neither capable nor willing to cooperate with
22 Ms. Wilson to resolve issues regarding the child.

1 The Court notes that although Dr. Sowa has
2 suggested on at least two occasions that the parents
3 consider medication for Justin for his ADHD, and Ms.
4 Wilson has indicated a willingness to discuss this
5 possibility, Mr. Wilson has consistently refused to
6 discuss with Ms. Wilson the possibility of medication for
7 Justin.

8 The Court also notes that when deciding which
9 school to transfer Justin to after the decision was made
10 to remove him from Congressional, although Ms. Wilson was
11 leaning towards a different school, Mr. Wilson
12 unilaterally made the decision to place Justin at
13 Commonwealth Academy then criticized Ms. Wilson for
14 waiting until the final day to sign the paperwork.

15 Finally, the evidence supports a finding that
16 had this Court not entered an order in March 2019 allowing
17 either party to record telephone calls with the child, Mr.
18 Wilson would have continued his abusive and derogatory
19 comments towards the mother in his phone calls with the
20 child.

21 The reasonable preference of the child if the
22 Court deems the child to be of reasonable intelligence,

1 understanding, age, and experience to express such a
2 preference.

3 The Court finds that Justin does not possess the
4 requisite age, understanding or experience to express a
5 preference. Justin is 10 years old, about to turn 11, and
6 will be entering the fifth grade. As such, he has not yet
7 completed elementary school.

8 He has ADHD and struggles with impulse control
9 which appears to be triggered to extreme degrees after
10 spending time with or during phone conversations with his
11 father.

12 He has difficulty with executive decision
13 making, particularly understanding the consequences of his
14 words, actions and choices.

15 He exhibits continued and ongoing stress when
16 faced with conflict between his parents, and acts out
17 aggressively, particularly towards his mother, when faced
18 with making any choice that is contrary to the expressed
19 wishes of his father.

20 The Court has carefully considered each of the
21 above factors and all of the -- I do not believe there's
22 -- I think the final factor is evidence of prior abuse.

1 And I do not find that any evidence was presented of prior
2 abuse, so the Court has also considered that factor.

3 The Court has carefully considered each of the
4 factors in Code Section 20-124.3 affording each the
5 appropriate weight, given the record in this case, the
6 testimony presented, including the demeanor and
7 credibility of the respective witnesses which the Court
8 heard and observed over a period of 3 days of testimony,
9 and has reviewed the exhibits introduced into evidence.

10 The Court finds that the best interests of the
11 child require that the custody and visitation schedule set
12 forth in the Marital Settlement Agreement be modified as
13 follows.

14 One. The parties will continue to share joint
15 legal custody. However, in the event the parties cannot
16 reach agreement, Ms. Wilson will have final authority to
17 make decisions on behalf of the child.

18 Two. Ms. Wilson is granted primary physical
19 custody of Justin.

20 Three. Mr. Wilson will have visitation with
21 Justin every other weekend beginning after school on
22 Friday until Monday night at 7:00 p.m.

1 Four. Justin may attend one tennis lesson with
2 Mr. Retta each week during mother's custodial time. Said
3 lesson will be scheduled directly between Ms. Wilson and
4 Mr. Retta. And Ms. Wilson will bring the child to and
5 from the lesson.

6 Mr. Wilson will arrange for payment to Mr. Retta
7 in accordance with any financial arrangement they reach.

8 Five. Neither parent shall make derogatory or
9 disparaging comments about the other parent or the
10 activities that parent has arranged for the child.

11 And neither parent shall use profanity in
12 conversations with the child or with the other parent.

13 Six. Ms. Wilson will not call or schedule any
14 events for Justin during Father's custodial time.

15 Ms. Wilson will forward via email to Mr. Wilson
16 invitations to birthday parties or other events that occur
17 during Mr. Wilson's custodial time. And Mr. Wilson will
18 have sole authority to decide whether Justin attends.

19 Seven. Mr. Wilson will not call Justin during
20 Mother's custodial time except Mr. Wilson may call Justin
21 between 8:00 and 8:30 p.m. every Tuesday, Wednesday and
22 Thursday evening. And the calls will be limited to half

1 an hour.

2 Ms. Wilson will ensure that Justin is available
3 to speak with his father during this time. All telephone
4 calls may be recorded at the option of the custodial
5 parent without warning, and such recording will be deemed
6 consensual on the part of the recorded party.

7 Eight. Justin will spend parents' birthdays
8 with the respective parent. The parent celebrating the
9 birthday can pick Justin up the night before at 7:00 p.m.
10 and return the child to school the morning after the
11 birthday.

12 If the morning after falls on a weekend, the
13 child shall be returned no later than 10:00 a.m., unless
14 it is that parent's custodial weekend.

15 Neither parent shall call the child while he is
16 celebrating the other parent's birthday.

17 Justin will spend every other one of his
18 birthdays with his father beginning in 2019. The
19 visitation schedule will be the same as for either
20 parent's birthday.

21 The parent who is not with Justin on his
22 birthday may call him at a time to be agreed upon by the

1 parties.

2 Holidays, spring break and winter break will
3 remain as set forth in the parties' Marital Separation
4 Agreement.

5 Each parent will be permitted one half-hour call
6 with the child on the following holidays: New Year's Day,
7 Thanksgiving, and Christmas.

8 The parents will not call the child on any other
9 holiday when the child is with the non-custodial parent
10 and will be permitted one call with the child during
11 spring and winter break during the other parent's
12 custodial time.

13 During the summer Mr. Wilson will have two
14 uninterrupted weeks with Justin during the month of June
15 which will begin at 10:00 a.m. Sunday and last until 7:00
16 p.m. the following Sunday. So two successive Sundays
17 because it's two uninterrupted weeks.

18 Mr. Wilson will have one uninterrupted week in
19 each of the months of July and August which will last from
20 10:00 a.m. Sunday until 7:00 p.m. the following Sunday.

21 Ms. Wilson will not contact Justin during this
22 time or schedule any activities for him.

1 Mr. Wilson will not schedule any camps or other
2 activities for Justin except during his custodial time.

3 Eleven. Ms. Wilson will advise Dr. Sowa or
4 whoever Justin's current therapist is regarding any camp
5 she intends to register Justin in during the summer prior
6 to registration. And that therapist will advise her if
7 Justin expresses any concerns with any camp proposed.

8 Twelve. Each parent will give the other parent
9 24 hours notice of their intention to take the child on a
10 trip outside of the D.C. Metropolitan area, providing the
11 times and dates of travel, destination and persons
12 traveling with parent and child.

13 Unless the travel dates include New Year's Day,
14 Thanksgiving or Christmas, the non-custodial parent will
15 not call the child during the travel dates except on the
16 specified holiday.

17 Thirteen. Mr. Wilson will continue his current
18 therapy and will also complete anger management therapy.
19 Mr. Wilson will also engage in family counseling with
20 Justin and coordinate the counseling with Dr. Sowa.

21 Fourteen. Ms. Wilson will engage in family
22 counseling with Justin and will coordinate the counseling

1 with Dr. Sowa.

2 Defendant's emergency motion to modify custody
3 is granted. Father's motion to modify custody is denied.
4 The Court finds it is Mr. Wilson's conduct, not Ms.
5 Wilson's conduct, that brings this matter before the
6 Court.

7 The Court further finds that the award of
8 attorney's fees to Ms. Wilson is supported by the record.

9 Do the parties have any questions?

10 MR. KUBLAN: Your Honor, just one clarification
11 about summertime? I think the Court said two weeks in
12 June, one week in July and one week in August for the
13 father.

14 What about Ms. Wilson --

15 THE COURT: The rest of the time is Ms.
16 Wilson's.

17 MR. KUBLAN: But -- you know, but if she wants
18 to take him, let's say two weeks uninterrupted and, you
19 know, we have --

20 THE COURT: She should be able to do that
21 because he has every other weekend.

22 MR. KUBLAN: I guess so, yes. Never mind.

1 THE COURT: I don't think that should be a
2 problem, but if it is, I do intend for her also to be able
3 to have a period of two uninterrupted weeks. That can be
4 in July or August.

5 MR. KUBLAN: Can Your Honor put that in the
6 order then?

7 THE COURT: Certainly.

8 MR. KUBLAN: Okay.

9 THE COURT: Any additional questions?

10 MS. PIPER: As to Mr. Wilson's therapist -- may
11 he choose a therapist?

12 THE COURT: Certainly.

13 MS. PIPER: I have questions as to times but I
14 can get that from the court reporter.

15 THE COURT: Okay. What I would suggest is if
16 the parties would prepare an order. And that way you can
17 kind of confer and you can look at the transcript and make
18 sure it's -- it's consistent..

19 We can schedule a date in a couple of weeks to
20 enter the order. And if there are any questions at that
21 point the Court will take them up.

22 Mr. Wilson, I will simply tell you I don't

1 really think you appreciated how generous Ms. Wilson was
2 in the marital separation and custody and visitation
3 arrangement that she agreed with you at the time of the
4 divorce.

5 And I genuinely believe that we would not be
6 here today but for the conduct that you have engaged in.
7 And I hope that you will use this as an opportunity to
8 reflect on that and modify that conduct because I do
9 believe it is very important for you -- and that you
10 consider it very important -- to have an ongoing
11 relationship with your son.

12 And I'd like to see that happen. But it can not
13 -- things can not continue in the way they have been over
14 the last 18 months.

15 If there are no further questions, thank you,
16 Counsel for your time. Have a nice weekend.

17 MR. KUBLAN: Your Honor, should we select a date
18 to --

19 THE COURT: Oh, yes. Why don't we do that?

20 MS. PIPER: Actually, Your Honor, I -- I do have
21 a question. When is the custodial schedule to begin?

22 MR. KUBLAN: Can it be (indiscernible)?

1 THE COURT: Where is -- where is Justin this --
2 where was he supposed to be this weekend?

3 MS. PIPER: Justin is supposed to be with Mr.
4 Wilson this weekend.

5 THE COURT: Okay. So I would like to keep that.
6 I don't at five o'clock on Friday want to suddenly pull
7 the rug out from under him. So I would like to keep that
8 and have that custody continue until 7:00 p.m. on Monday.

9 And then we'll pick up with the custodial
10 schedule beginning 7:00 p.m. on Monday.

11 MS. PIPER: And I -- and I didn't raise this
12 before, but, Your Honor, I believe it would be best for
13 Justin to have Dr. Sowa talk to him about the custodial
14 change or be available.

15 Can we have a ruling or can the parties agree
16 that they are not going to discuss the changes with Justin
17 until his therapy appointment which is Thursday?

18 MR. KUBLAN: I don't understand why there needs
19 to be even a discussion, Your Honor. The child is ten
20 years. I mean, it just -- it's -- I -- I just think, you
21 know, they are just going to continue with the new
22 schedule.

1 And if the child has any questions, you know,
2 then I think they just say to the child that this is what
3 they decided.

4 MS. PIPER: I mean, I think that he would
5 benefit from having Dr. Sowa available to talk to him.

6 THE COURT: I don't have any problem with having
7 Dr. Sowa available. I -- I do think at this point that it
8 makes the most sense to just explain to him that this is
9 what the -- the arrangement is going to be going forward.

10 And then Dr. Sowa can certainly be available to
11 him whenever Justin would like to talk with him about it.
12 I'm sure there will be a number of issues that he'll like
13 to talk about.

14 MR. KUBLAN: So just to be clear, Your Honor,
15 starting this Monday at 7:00 o'clock that's when the new
16 schedule is going to begin?

17 THE COURT: Correct.

18 MR. KUBLAN: Okay. And what's the Court's
19 availability for the --

20 THE COURT: Any day but the 13th of September --
21 any Friday but the 13th of September.

22 MS. PIPER: I'm available on the 30th and the

1 6th.

2 MR. KUBLAN: I'm available on the 6th, Your
3 Honor, too.

4 THE COURT: We will set this down for 10:00 a.m.
5 on the 6th of September.

6 THE CLERK: (Inaudible.)

7 THE COURT: Yes. Thank you, Counsel, Mr.
8 Wilson, Mrs. Wilson.

9 * * * * *

10 (Whereupon, at approximately 5:00 o'clock p.m.,
11 the hearing in the above-entitled matter concluded.)
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CERTIFICATE OF REPORTER

I, COURTNEY A. SEBASTIAN, a Certified Court Reporter, do hereby certify that I took the stenographic notes of the foregoing proceedings which I thereafter reduced to typewriting; that the foregoing is a true record of said proceedings; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were held; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

Courtney Sebastian
COURTNEY A. SEBASTIAN, CCR

EXHIBIT C

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VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

JUSTIN POTTER WILSON, JR.,

Plaintiff,

v.

ANNA VLADIMIROVNA WILSON,
(f/k/a Anna Nikolaeva Wilson)

Defendant.

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Case No. CL 16-1673-01

CHILD CUSTODY AND VISITATION ORDER

THIS CAUSE CAME before the Court on June 15-16, 2020, June 21-23, 2021, September 1-2, 2021, and September 15, 2021 for a full evidentiary hearing upon “Defendant’s Verified Emergency Motion to Suspend Visitation and Modify Child Custody and Visitation” and “Plaintiff’s Counter Motion Against Defendant for Emergency and Permanent Custody, Injunctive Relief and Sanctions” regarding the parties’ minor child, Justin Potter Wilson III (hereinafter the “Child”), age 13, born September 1, 2008; and

IT APPEARING TO THE COURT that after carefully considering each of the factors in Virginia Code Section 20-124.3, affording each the appropriate weight, given the record in this case, the testimony presented, including the demeanor and credibility of the respective witnesses which the Court heard and observed over a period of eight (8) days of testimony, and the exhibits introduced into evidence; that, for the reasons set forth in the Court’s ruling on September 29, 2021, a copy of which is attached hereto and made a part of this Child Custody and Visitation Order below,

*Child Custody and Visitation Order
Wilson v. Wilson
Case No. 16-1673-01
Page 1 of 5*

IN CONSIDERATION WHEREOF, it is hereby ORDERED AND ADJUDGED:

(1) Transcript. The transcript of this Court's ruling of September 29, 2021 is attached hereto and incorporated by reference into this order.

(2) Material Change. Based on the reasons stated in the Court's ruling, the Court finds that there has been a material change in circumstances since entry of the Custody Order on September 9, 2019 and that this material change justifies a modification of said Order based upon the best interests of the Child as follows. The Court further finds that the custody and visitation schedule set forth in the September 9, 2019 Custody Order shall be modified as follows.

(3) Legal Custody. Defendant ("Mother") shall have sole legal custody of the Child. Mother shall provide Plaintiff ("Father") with information regarding any medical treatment received by the Child, as well as any school reports from any school the Child is attending. Mother may, but is not required to, consult with Father regarding the Child's activities, school performances, and any behavioral or emotional issues involving the Child.

(4) Physical Custody. Mother shall have sole physical custody of the Child until further order of the Court.

(5) Visitation. Father shall have the following visitation with the Child:

(a) Supervised visitations shall initially be with the reunification therapist, Michele Cole, Ph.D. ("Dr. Cole"), who is the therapist selected by the guardian *ad litem*. Dr. Cole will work with Father and the Child in order to begin the reunification process. The number and timing of sessions shall be decided by Dr. Cole. When approved by Dr. Cole, Father will also be allowed supervised visitation with the Child one (1) Saturday a month for a period not to exceed four (4) hours, with supervision through either Safe Heavens or a certified visitation professional approved by the guardian *ad litem*. Father shall pay for both the reunification therapy services and his supervised visitation.

(b) Mother shall not call or schedule any event for the Child during any of Father's supervised visitation times. Father shall provide Mother with a visitation schedule approved by Dr. Cole at least two (2) weeks in advance, and Mother can reach out to Dr. Cole to adjust the schedule if an unavoidable conflict exists.

(c) Telephone Calls. Father shall not call the Child during Mother's custodial time, except Father may call the Child between 8:00 p.m. and 8:30 p.m. every Tuesday, Wednesday, and Thursday evening, and the calls shall be limited to a half hour. Mother shall ensure that the Child is available to speak with Father during this time. All Father's telephone calls with the Child may be recorded by Mother without warning, pursuant to this Order. Notwithstanding the forgoing, Father shall be permitted to call the Child for up to one (1) hour during the following holidays: New Year's Day, Thanksgiving, and Christmas.

(6) Disparaging Comments. Neither parent shall make derogatory or disparaging comments about the other parent or the activities that parent has arranged for the Child, and neither parent shall use profanity in conversations with the Child or with the other parent.

(7) Corporal Punishment. Neither parent shall use corporal punishment as a means of disciplining the Child or engage in any physical abuse of the Child. This is to include intentionally hitting any part of the Child's body to get his attention, remonstrate him for inappropriate or thoughtless conduct, or for any other reason, except if the Child's safety or health is in danger and such action is necessary to protect the Child's immediate well-being.

(8) Therapy. Father shall continue his current therapy and shall also complete a specific anger management program to be approved by the guardian *ad litem*, and that can be done by William B. Zuckerman, Ph.D., as long as there is a clear focus on anger management as it applies to the relationship with Mother and the Child. Mother shall engage in family counseling with Elizabeth Bennett, Ph.D. ("Dr. Bennett") and the Child at least every two (2) weeks until further order of the Court.

(9) Mother shall make every effort to ensure that the Child is attending school in a consistent and timely manner, and shall work with the guardian *ad litem* if absences or tardies continue to be an ongoing issue while school is back in-person.

(10) The Court will set this matter for review, at which time the reunification therapist, guardian *ad litem*, and Dr. Bennett shall report to the Court as to whether increased visitation and unsupervised visitation with Father, including overnights, weekends, and holidays, are appropriate.

(11) Father shall provide Mother with the Child's U.S. Passport, currently in his position, within ten (10) days from the entry of this Order.

(12) Attorney's Fees. The Court finds that the award of attorney's fees to Mother is supported by the record. Father shall pay the sum of Fifty Thousand and no/100 Dollars (\$50,000.00) to Mother as and for reimbursement of Mother's attorney's fees within thirty (30) days of the entry of this Order.

(13) 30 Day Notice. Pursuant to Section 20-124.5 of the Code of Virginia, 1950, as amended, thirty (30) days advance written notice must be given to the Court and the other party by any party intending to relocate and of any intended change of address. Such notice shall provide the Court and the other party of the intended date of change of address, the specific street, route address, city or county, state and zip code of the intended new address. Such written notice shall be mailed to the Court at the following address: Clerk of the Court, Circuit Court of Arlington County, 1425 N. Courthouse Road, Arlington, Virginia 22201, and shall certify the date that such information was mailed or otherwise delivered to the other party.

IT IS FURTHER ORDERED that the Clerk of the Court may forthwith issue certified copies of this Order to Counsel of Record.

ENTERED this ____ day of _____



03/04/2022

JUDITH L. WHEAT
JUDGE

Circuit Court Judge

SEEN AND AGREED:



ANDREI J. KUBLAN (VSB No. 73120)

KUBLAN KHAN PLC

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Counsel for Defendant (Mother)

SEEN AND OBJECTED TO*:

John L. Bauserman, Jr., VSB #33816

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Telephone: (703) 939-4990

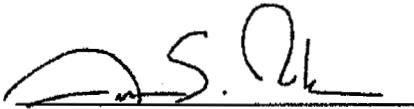
Facsimile: (703) 547-0257

Email: jblaw22@gmail.com

Counsel for Plaintiff/Father

*Objected for reasons stated in argument and on the record and for such other and further reasons as may be submitted to the Court in the form of objections or motion for reconsideration within twenty-one days from the date of entry of this Order.

SEEN AND AGREED:



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Alexandria, VA 22314

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Guardian ad Litem

Child Custody and Visitation Order

Wilson v. Wilson

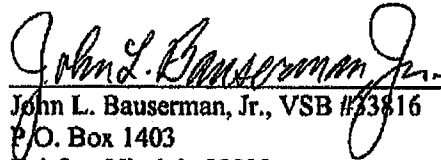
Case No. 16-1673-01

Page 5 of 5

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Guardian ad Litem

Child Custody and Visitation Order
Wilson v. Wilson
Case No. 16-1673-01
Page 5 of 5

1

V I R G I N I A

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

- - - - - x
:
JUSTIN POTTER WILSON, JR., :
:
Plaintiff, :
:
-vs- : CASE NO.: CL16001673-00
:
ANNA VLADIMIROVNA WILSON, :
:
Defendant. :
:
- - - - - x

Circuit Courtroom 10C
Arlington County Courthouse
Arlington, Virginia

Wednesday, September 29, 2021

The above-entitled matter came on to be heard
Via Microsoft Teams module before the HONORABLE JUDITH L.
WHEAT, Judge, in and for the Circuit Court of Arlington
County, beginning at 2:46 o'clock p.m.

APPEARANCES:

On Behalf of the Plaintiff:

JOHN L. BAUSERMAN, JR., ESQUIRE

On Behalf of the Defendant:

ANDREI J. KUBLAN, ESQUIRE

Also Present:

AARON S. BOOK, ESQUIRE

P R O C E E D I N G S

THE BAILIFF: All rise. This Circuit Case is now in session. The Honorable Judith Kelly Wheat is now presiding.

THE CLERK: This is CL16001673-03, Wilson versus Wilson.

(Whereupon, the Court Reporter was sworn by the Clerk of the Court.)

THE COURT: Good afternoon, everyone. Mr. Book, do you have any objection if I take my mask off?

MR. BOOK: No objection.

THE COURT: All right. As I indicated to all of you, I would render my decision today. I have spent a considerable amount of time working on it, and I will go through the facts that I have considered and the conclusions that I have drawn after multiple days of testimony in this case.

This matter came before the Court on the motion of Anna Wilson to modify custody based on allegations of physical abuse of a child by Justin Wilson. Justin Wilson filed a cross-motion to modify custody, alleging that Mrs. Wilson committed fraud on the Court in filing her petition and in her testimony in June 2020

1 during the emergency custody proceeding.

2 The first issue before the Court is whether
3 there has been a material change in circumstances such
4 that modification of the custody is properly before the
5 Court. In deciding this issue, the Court makes the
6 following preliminary observations.

7 The Court heard several days of testimony on
8 August 20, 2019, on the party's cross motions to modify
9 custody. At the conclusion of that hearing, the Court
10 maintained joint legal custody on the part of Mr. and Mrs.
11 Wilson, with Mrs. Wilson having final decision-making
12 authority. I awarded primary physical custody to Mrs.
13 Wilson, with extended weekend and holiday visitation to
14 Mr. Wilson.

15 This decision was intended to achieve certain
16 objectives which the Court deemed to be in the best
17 interest of the parties' minor child, Justin, who at that
18 time was turning 11 years old.

19 The Court's objectives include, first,
20 providing each parent the opportunity to engage fully in
21 the child's educational, emotional, and physical
22 development, while also providing a final decision-maker,
23 given the high level of conflict between the father and

1 mother.

2 Second, allowing the child to maintain
3 relationships with other important individuals in his
4 life, including Mr. Wilson's family, Mrs. Wilson's and the
5 minor child's childhood friends, Mr. Rhett (ph.), a hired
6 tennis coach who appeared to be a positive adult influence
7 in the child's life; and Dr. Sowa, a clinical psychologist
8 and therapist who had been working with the child for over
9 a year prior to the hearing and appeared to have a good
10 relationship with the child.

11 Third, creating clear lines of separation
12 between the child's time with each parent, with the goal
13 of minimizing intrusion or interference by the other
14 parent during their non-custodial time. And, four,
15 diffusing the parties' efforts to embroil the child in
16 their high-conflict relationship.

17 The Court was also concerned, given the
18 testimony presented during the 2019 hearing, about Mr.
19 Wilson's ability to control his emotions and his anger
20 towards Mrs. Wilson, when he believed Mrs. Wilson and the
21 child were engaging in activities that Mr. Wilson did not
22 agree were a priority for the child, such as taking a
23 four-day trip to Disney World with Mrs. Wilson and family

1 friends rather than staying in Arlington with Mr. Wilson
2 practicing tennis, which was the subject of extended
3 testimony in the 2019 hearing.

4 In addition, the Court was concerned, based on
5 the testimony provided, that Mr. Wilson would be upset
6 with the Court's decision to modify custody.

7 For these reasons, the Court made anger-
8 management counseling and continued therapy a condition of
9 the September 2019 custody order for Mr. Wilson to
10 minimize the possibility of intended or unintended
11 emotional and physical harm to the minor child when
12 conflicts arose between the parents or between the parents
13 and the child.

14 Based on the evidence presented in eight days
15 of hearing the instant cross petitions to modify custody,
16 it appears that none of these objectives were met in the
17 ten months between the 2019 custody trial and the 2020
18 emergency cessation of Mr. Wilson's visitation in this
19 case.

20 Before the Court signed the final order in
21 September 2019, Mr. Rhett was no longer providing tennis
22 lessons to Justin and had otherwise discontinued his
23 relationship with him.

1 In December 2019, Dr. Sowa advised that he was
2 unable to continue to assist the family and recommended a
3 new therapeutic model involving two therapists working
4 separately with Justin and an individual parent, which
5 ultimately was the genesis of the emergency petition filed
6 in May 2020.

7 Throughout the period January 20 through April
8 20, 2020, the parents disagreed over how best to implement
9 the two therapists mom recommended by Dr. Sowa to the
10 family.

11 Consequently, instead of counseling providing
12 both continuity and a safe space for the child to engage
13 with adults, who could help him navigate the high level of
14 ongoing conflict between his parents and its effect on
15 him, it became the catalyst for the events now before the
16 Court.

17 In April of 2020, Mr. Wilson verbally
18 assaulted family friends of the minor child in front of
19 the minor child when he happened upon them while out
20 jogging, calling them terrible, horrible, ugly people,
21 because of the testimony they provided in the 2019 custody
22 trial.

23 Mr. Wilson urged the child to tell the family

1 that he wanted to live with his father, not his mother,
2 notwithstanding the Court's order the previous fall. Mr.
3 Wilson also admitted in June 2020 that he was angry about
4 the outcome of the 2019 custody trial.

5 Significantly, and in keeping with the Court's
6 2019 concerns, Mr. Wilson admitted during an emergency
7 custody hearing in June of 2020 that in May of 2020, after
8 being advised by the child's therapist that the child was
9 provided conflicting information to both therapists
10 regarding his relationship with each parent, Mr. Wilson,
11 in a rage he described as 9.5 out of 10, physically
12 grabbed the child by the shoulders and vigorously shook
13 him about six times and smacked him on the bottom.

14 He admitted to telling the child that he was
15 so angry he would not look at him, that he feels like he
16 could break the child's nose, and that the child needed to
17 stay in his room.

18 In the week after this incident, the child
19 made clear to his therapist and Court-appointed GAL that
20 he did not want to have contact with his father.

21 The Court finds this combination of factors
22 sufficient to create a material change in circumstances.

23 Mrs. Wilson's emergency petition to modify

1 custody alleges the child reported that on May 18th, 2020,
2 Mr. Wilson hit the child in the face, head and arms. The
3 petition also alleges the child reported that on prior
4 visits with Mr. Wilson he repeatedly hit the child in the
5 head, causing pain which lasted up to 20 minutes.

6 Mr. Wilson's cross petition to modify custody
7 alleges that Mrs. Wilson committed fraud on the Court, and
8 that the pictures submitted to support the emergency
9 petition were fabricated and Mrs. Wilson provided false or
10 misleading testimony to the Juvenile Court and this Court,
11 respectively, in the June 2nd protective order hearing and
12 the June 15th emergency motion to modify custody in this
13 court.

14 After 15 months of extended discovery in the
15 case, the Court heard three days of testimony in June 2021
16 and two additional days of testimony and one-half day of
17 argument in September 2021.

18 Having considered the credibility of the
19 evidence and the witnesses presented by both parties and
20 according the weight the Court deems appropriate to each,
21 the Court makes the following findings with respect to the
22 factors set forth in Virginia Code 20-124.3.

23 On the age and physical and mental condition

1 of the child, given due consideration to the child's
2 changing developmental needs, Justin is now 13 years old
3 and entering the 7th grade. For the 2019-2020 and 2020-
4 2021 school years he was enrolled in Commonwealth Academy
5 in Alexandria, Virginia, however he was not invited back
6 for the 2021 and 2022 school year. The guardian ad litem
7 reports this was due to litigation in this case.

8 Mr. Wilson acknowledged that in or around
9 December of 2020 he received an e-mail from the school
10 asking the parents not to embroil the school in the
11 litigation. He also acknowledged that one of the factors
12 cited by the school for Justin not being allowed to return
13 was the subpoenas issued by Mr. Wilson's attorney in this
14 case. Justin, the son, currently attends Swanson Middle
15 School in Arlington, Virginia.

16 He has been diagnosed in the past with
17 attention-deficit hyperactivity disorder, but the Court
18 has not been made aware that he is taking any medication
19 for ADHD.

20 Mr. Wilson testified that Justin's grades at
21 Commonwealth Academy were Bs and B-minuses and that his
22 grades had been slightly lower this past year, but neither
23 party introduced Justin's academic records or report

1 cards.

2 Jacqueline Riley, Justin's 5th-grade math
3 teacher, testified that he attended class regularly
4 throughout 2019-2020. Mr. Wilson introduced attendance
5 records which show that during the 2020-2021 school year
6 Justin was marked absent or tardy from various classes in
7 excess of 100 times.

8 Mrs. Wilson testified that Commonwealth
9 Academy's policy was to mark a student tardy or absent
10 even if they were a few minutes late.

11 Dr. Bennett testified that sometime in March
12 of 2021 she recalled that Justin was sent home from school
13 for refusing to wear a mask.

14 Justin has been described by both parents and
15 the guardian ad litem as active, athletic, and in good
16 physical health. He has been involved in football,
17 tennis, skateboarding, hiking, chess and guitar.

18 Marianna Lanzo and Iryna Balusheuskaya, who
19 see Justin frequently and saw him in June of 2021 prior to
20 the trial, described him as very happy, inquisitive,
21 talkative, and open to trying new things.

22 Regarding Justin's mental and emotional state,
23 the Court heard testimony from Dr. Elizabeth Bennett, Dr.

1 Guy Van Sickle, and Dr. Adam Soa in June 2020, and
2 additional testimony from Dr. Bennett in June 2021. Dr.
3 Bennett, accepted by the Court as an expert in clinical
4 psychology, began seeing Justin every other week,
5 beginning in March of 2020, upon a referral from Dr. Sowa.
6 She had met with Justin approximately nine times and Mrs.
7 Wilson twice as of June 2020.

8 She described Justin initially as somewhat
9 aloof, oppositional, disruptive, and mildly hostile to
10 Mrs. Wilson during their initial sessions.

11 Dr. Van Sickle, accepted by the Court as an
12 expert in clinical psychology, first began seeing Justin
13 in April 2020, also at the suggestion of Dr. Sowa, and saw
14 him every other week through May 15th, 2020. He observed
15 that Justin seemed fond of his father and appeared calm
16 and happy when he spoke about his father. He testified
17 that Justin was extremely unhappy when discussing his
18 mother, claiming he never did anything when he was with
19 her, and generally having nothing positive to say.

20 Dr. Bennett and Dr. Van Sickle first conferred
21 in May 2020 regarding Justin. Based on their
22 conversations and observations of Justin, it was obvious
23 that Justin was in conflict and was telling very

1 different, polarized stories to both parents.

2 Dr. Bennett described Justin as a child who
3 felt trapped by a loyalty conflict between his parents and
4 was struggling to figure out how to untangle himself from
5 it.

6 Both therapists were concerned about Justin's
7 psychological well-being, and their goal for therapy in
8 early May 2020 was to ensure that Justin was safe and to
9 bring his emotions more to center, help him develop a
10 positive relationship with both parents, and lessen the
11 loyalty conflict.

12 Dr. Bennett testified that after the May 2020
13 incident, Justin seemed relieved that there was going to
14 be a break in contact with his father and more open to
15 discussing the pressure he had been under and his worries
16 about being hit by his father.

17 Dr. Bennett found the child's demeanor and
18 specific emotional response during their conversations
19 consistent with the comments he was making. She observed
20 that his overall demeanor changed significantly after June
21 2020, and he was more age-appropriate and spontaneous in
22 therapy than he had been before.

23 Although Justin remained fearful of his father

1 even into June 2021, he was much warmer towards his mother
2 and exhibited fewer power struggles with her during this
3 time.

4 Over the course of 2020, he did exhibit
5 perspective about his father's feelings, concerned that he
6 may be sad, and appeared to be softening a bit in his
7 unwillingness to have contact with his father.

8 Dr. Bennett acknowledged that although Mrs.
9 Wilson articulated significant worry in early May about
10 physical abuse by Mr. Wilson, Dr. Bennett did not recall
11 having any information consistent with physical abuse by
12 Mr. Wilson prior to the May 2020 CPS report.

13 In subsequent sessions with Justin, Justin
14 talked about being hit by Mr. Wilson on other occasions,
15 but his reports were inconsistent from session to session,
16 and Dr. Bennett had no specific information about the
17 nature of the contact or the frequency.

18 Dr. Van Sickle testified that during his
19 sessions with Justin, he never manifested discomfort with
20 his father or disclosed that Mr. Wilson had treated him
21 poorly.

22 Factor two, the age and physical and mental
23 condition of each parent.

1 Prior to the 2019 custody trial, the Court
2 ordered both Mr. and Mrs. Wilson to undergo independent
3 medical examinations, which were performed by Dr.
4 Zuckerman and Dr. Saminow, respectively. The Court did
5 not require new evaluations prior to the 2021 hearing, and
6 neither parent was deemed to have any mental or emotional
7 disorder. Mr. Wilson self-reported that he believes he
8 has ADHD, but it has never been diagnosed.

9 Both parents are in their late 40s, and both
10 appear to be in good physical health. Mr. Wilson
11 described his level of fitness as above average. Prior to
12 June 2020, both parents engaged in various physical
13 activities with the child, including hiking, jogging,
14 pick-up basketball, and skating.

15 Number three, the relationship existing
16 between each parent and Justin, including cognitive
17 involvement and ability to accurately assess and meet the
18 emotional, intellectual, and physical needs of the child.

19 Mrs. Wilson. Mrs. Wilson testified that
20 during the period of September of 2019 through June 2021,
21 she would take Justin to the skate park, hiking, to
22 swimming lessons, guitar lessons, basketball, and to play
23 chess.

1 He was enrolled in skateboard lessons and
2 winter soccer in 2019, guitar lessons, swimming lessons,
3 flag football, football camp and nature camp in 2020,
4 tennis in 2020 and 2021, and Carnegie, an online
5 scholastic math game in 2019 and 2020.

6 Mrs. Wilson and Justin also like to read and
7 cook together and spend time with family friends.

8 During the time period in issue, they went on
9 two winter ski vacations to Canaan Valley, West Virginia,
10 two beach vacations in Marco Island, Florida, played laser
11 tag, went rock-climbing, attending skating groups,
12 birthday parties, and movie nights.

13 Defendant's Exhibit 7 contains numerous photos
14 of Justin engaging in many of these activities with Mrs.
15 Wilson and others.

16 Mother's witnesses, Marianna Lanzo, Iryna
17 Balusheuskaya, and Galina Spivak, who see Justin with his
18 mother frequently, described him in June 2021 as very
19 happy, inquisitive, talkative, and open to trying new
20 things.

21 During the period of 2019 through May 2020,
22 they also described Justin as more relaxed, open, and less
23 stressed after prolonged stays with his mother. They were

1 aware of his involvement in football, tennis, chess,
2 skateboarding and guitar.

3 In apparent conflict with this evidence, Dr.
4 Sowa testified that through December 2019 Justin described
5 having a very negative relationship with his mother,
6 claiming that they never did anything together and that he
7 would just sit in his room and play videogames when he was
8 with her. Dr. Sowa never discussed this with Mrs. Wilson,
9 even though Mrs. Wilson brought Justin to most of their
10 sessions in 2019.

11 Dr. Van Sickle provided similar testimony in
12 June 2020, but admitted he never observed any interactions
13 between Justin and his mother, and that Mrs. Wilson was
14 very agreeable with the idea of him working with Justin.

15 Neither therapist was able to offer an opinion
16 as to whether Justin's statements regarding time spent
17 with his mother was coached, but Justin's descriptions are
18 wholly inconsistent with the overwhelming, credible
19 evidence presented to the Court in 2019 and again in 2021.

20 Dr. Bennett, too, described Justin initially
21 as defiant and oppositional towards his mother in the
22 spring of 2020, but noticed a marked positive difference
23 in his attitude immediately after the events of May 2020.

1 By 2021, she described the child's relationship with his
2 mother as generally stable and his therapy as being on a
3 maintenance level.

4 The Court finds all of this evidence
5 consistent with the therapists' opinions that, due to the
6 conflict between the parents, Justin did not feel it was
7 permissible to admit having a positive relationship with
8 his mother.

9 Mr. Wilson. The only friends of Mr. Wilson,
10 Solomon Wanamu (ph.) and Rajish Lashish (ph.) testified
11 that they had engaged in numerous activities with Mr.
12 Wilson and Justin, mostly revolving around tennis and
13 other sports, prior to the change in custody in 2019.

14 They did not interact with Mr. Wilson or
15 Justin frequently after that. They described Mr. Wilson's
16 relationship with Justin as a good father who tended to
17 his needs. They had seen Mr. Wilson pat Justin on the
18 back or the butt, but never saw him physically abuse
19 Justin.

20 The Court notes that although tennis was a
21 predominant part of Mr. Wilson's and Justin's routine
22 prior to the custody hearing in 2019, and Mr. Wilson
23 testified in this hearing how important he believes tennis

1 is for Justin's ADHD, Mr. Wilson discontinued tennis
2 lessons with Mr. Rhett immediately after the 2019 hearing
3 and stopped playing tennis with Justin during his
4 custodial time.

5 The Court notes that this was done even
6 though, due to the holiday schedule incorporated into the
7 Court's 2019 order, Mr. Wilson had custody of Justin close
8 to 50 percent of the time in the fall and the winter of
9 2019 and 2020.

10 Mr. Wilson did testify that during this time,
11 he planned fun weekend outings with Justin, including
12 traveling to New York and the Dominican Republic, and
13 trips to a football game in Florida, and to visit family
14 in Nashville.

15 Mr. Wilson worked in an exercise component
16 during his visitation time with Justin. And when he and
17 Justin stayed in the D.C. area, they would go to the
18 movies, play paintball, go to the park, jog, play at the
19 rec center, or engage in other physical type activities.

20 Because his visitation with Justin was
21 primarily on weekends, Mr. Wilson did not engage in much
22 school work with Justin. However, he testified that
23 Justin usually had less than 15 minutes of homework while

1 he was enrolled in Commonwealth Academy.

2 He testified that throughout the period 2019
3 through 2021, he checked in with the school approximately
4 once per week regarding Justin's progress and assisted him
5 with one large project in the fall of 2019.

6 Mr. Wilson was aware that Justin was taking
7 skateboarding lessons in October of 2019 and attended some
8 swimming lessons in the fall of 2020 and drove him to flag
9 football in early 2020.

10 While Mr. Wilson appears to have come to some
11 realization, with the help of Dr. Zuckerman, of the impact
12 that continuous custody disputes had had on Justin, Mr.
13 Wilson appears unable or unwilling to see that it is his
14 actions which have played the most significant role in the
15 outcome of these proceedings, and instead continues to
16 blame Mrs. Wilson for the rupture in the father/child
17 relationship.

18 Mr. Wilson also does not seem to understand
19 why his 11-year-old son might understand a statement made
20 in raging anger that he could break his nose as a threat
21 of physical harm rather than a rhetorical statement, as
22 Mr. Wilson continues to describe it.

23 In addition, Mr. Wilson has embarked on a

1 scorcher of litigation strategies to discredit Mrs. Wilson
2 and indirectly Justin, notwithstanding his own admissions
3 at the very first emergency hearing in June 2020 that he
4 precipitated an inappropriate and physical abusive
5 encounter with his son on May 18, 2020, that Mrs. Wilson
6 played no role in whatsoever.

7 This conduct occurred just nine months after
8 the Court found that Mr. Wilson engaged in a pattern of
9 emotional abuse towards both Mrs. Wilson and Justin that
10 necessitated a change in custody and anger-management
11 counseling.

12 Moreover, while the Court has attempted
13 repeatedly over the past 18 months to focus this case back
14 on Justin, Mr. Wilson has done the opposite. To this day,
15 he has expressed no concern about the decision by
16 Commonwealth Academy to disenroll Justin for the 2021-22
17 school year, nor has he taken any responsibility for the
18 impact his litigation tactics has had on his son's ability
19 to return to the specialty school he has attended for the
20 past several years.

21 Finally, while Mr. Wilson appears genuinely
22 upset about not having had contact with Justin for the
23 past 18 months, he has been unwilling to participate in

1 the program of supervised visitation as recommended by the
2 guardian ad litem in order to begin the reconciliation
3 process with Justin.

4 As a result, Justin, too, has lost 18 months
5 of interaction with his father, during COVID, one of the
6 most challenging and isolating times he has likely faced
7 in 13 years of life.

8 The Court finds these facts significant in
9 weighing what is in the best interest of the child in this
10 case.

11 Factor four, the needs of the child, given due
12 consideration to other important relationships of the
13 child, including, but not limited to siblings, peers, and
14 extended family members.

15 The evidence is undisputed that after the
16 incident on May 18th, 2020, Justin wanted no contact with
17 Mr. Wilson and has had no contact with Mr. Wilson or his
18 family, all of whom have strong relationships with Justin.

19 The evidence also establishes that Justin's
20 hardline position appears to be softening as the months
21 have gone by, and Justin seems more willing to re-engage
22 with his father, although he is still fearful of what that
23 process might look like.

1 Prior to May 2020, witnesses called by both
2 Mr. and Mrs. Wilson testified that Justin appeared content
3 when dealing with either parent without the interference
4 of the other, although transitions were difficult,
5 particularly given the custody tug-of-war Justin's
6 therapist described him as being in.

7 Justin has been described as a polite,
8 articulate, athletic, bright, high-needs child, and
9 routine and structure as well as physical activity are
10 important to him.

11 Although the Court attempted to create a
12 framework in its 2019 order that would allow the parties
13 to institute both routine and structure, the ongoing
14 conflict between the parties and Mr. Wilson's volatile
15 responses to that conflict have completely undermined any
16 routine or structure the Court's 2019 order was designed
17 to provide.

18 Five, the role each parent has played and will
19 play in the future in the upbringing of the child. Mrs.
20 Wilson was awarded primary physical custody in 2019.
21 Although it was noted previously, given the holiday
22 schedule incorporated into that order, Mr. Wilson's
23 custody in the fall of 2019 continued to be closer to

1 50/50. Since May 21, 2020, Mr. Wilson has had no contact
2 at all with Justin.

3 Although the Court maintained joint legal
4 custody in its 2019 order, in the hope that Mr. and Mrs.
5 Wilson would work with one another to achieve Justin's
6 best interest, given the toxic relationship between the
7 parents, this Court cannot envision how both parents can
8 continue to play an equal, ongoing, and supportive role in
9 Justin's life in the future.

10 Six, the propensity of each parent to actively
11 support the child's contact and relationship with the
12 other parent, including whether the parent has
13 unreasonably denied the other parent access to or
14 visitation with the child.

15 The Court adopts the facts previously
16 articulated in that in evaluating this factor, and finds
17 the ongoing high level of conflict between the parties,
18 and their continued willingness to embroil the child in
19 that conflict, and the propensity of each as evidenced by
20 the testimony to think the worst of the other, is a
21 significant factor in the Court's consideration.

22 The relative willingness and demonstrated
23 ability of each parent to maintain the close and

1 continuing relationship with the child and the ability of
2 each parent to cooperate and resolve differences regarding
3 the matters affecting the child. The Court adopts the
4 facts previously articulated in evaluating this factor.

5 Eight, the reasonable preference of the child.
6 The Court deems the child to be of reasonable
7 intelligence, understanding, age, and experience to
8 express such a preference. At 13, the Court finds that
9 Justin possesses the requisite age, understanding, and
10 experience to express a preference, taking into
11 consideration that he struggles with impulse control and
12 has expressed fear about reinitiating contact with his
13 father, given the facts and circumstances currently before
14 the Court.

15 The Court previously found that Justin has
16 difficulty with executive decision-making, particularly
17 understanding the consequences of his words, actions and
18 choices. He continues to exhibit ongoing stress when
19 faced with conflict between his parents.

20 Justin has expressed and acted upon his desire
21 not to have contact with his father. However, this
22 position has softened, and presented with a safe scenario
23 to begin reunification, he may be amenable to that

1 process.

2 In addition, Justin appears to have developed
3 an open relationship with his guardian ad litem, who can
4 assist Justin with decision-making and any reunification
5 process.

6 Nine, prior history of the family abuse. The
7 parties presented evidence of an incident in 2017, when
8 Mr. Wilson struck Justin with a belt and a report was made
9 to CPS. The facts regarding this incident are now fully a
10 part of the record in this case.

11 The incident was addressed by CPS, but the
12 only assessment that appears from the deposition from the
13 testimony of Mr. Rails (ph.), is that Mr. Wilson was
14 advised to refrain from further corporal punishment of the
15 child.

16 The Court finds the incident relevant as an
17 additional example of a stern physical interaction between
18 Justin and Mr. Wilson that may play into his fear of
19 physical violence on the part of his father and weighs it
20 accordingly.

21 The Court does not find it particularly
22 informative on the issue of whether Mrs. Wilson's
23 testimony that she did not know what to do the week of May

1 18, when she learned that Justin was hit by his father was
2 credible.

3 There is no evidence that Mrs. Wilson made the
4 CPS report regarding the 2017 incident, moreover knowing
5 what to do and knowing whether to do it are two completely
6 different issues.

7 Ten, other factors the Court deems
8 significant. The Court does find that during the week of
9 May 18, 2020, Mrs. Wilson embroiled Justin in the instant
10 dispute by having the child make multiple tape recordings
11 regarding the events of May 18, which she was slow to
12 produce in discovery, and taking various pictures of the
13 child's face, which were relied upon by Mr. Wilson for his
14 fraud on the Court allegations.

15 In addition, Mrs. Wilson provided conflicting
16 explanations regarding the events of May 18 to 22 and
17 admitted that she provided false information to the
18 police, Dr. Bennett, and Child Protective Services
19 regarding the date she learned the cause of the bruise on
20 the child's face.

21 She explained that she did not tell the
22 authorities she had learned about the source of the bruise
23 several days earlier because she was afraid she would get

1 in trouble for not reporting the injury at that time.

2 The Court believes that Mrs. Wilson was not
3 sure what she should do in May 2020 after learning about
4 the abuse, given the way this litigation has proceeded so
5 close in timing to the 2019 proceedings and its effect on
6 Justin.

7 However, her decision to alter the narrative
8 to make herself look better provided Mr. Wilson the
9 factual basis to allege fraud, and Mrs. Wilson to some
10 extent brought that on herself. That said, the Court does
11 not find either clear and convincing or a preponderance of
12 evidence that Mrs. Wilson committed a fraud on the Court.

13 Notwithstanding Mr. Wilson's arguments to the
14 contrary, Mrs. Wilson did not make up an allegation of
15 physical abuse by Mr. Wilson on May 18th, 2020. Mrs.
16 Wilson stated in her emergency motion to modify custody
17 and in her motion for protective order that Justin told
18 her that Mr. Wilson struck him in the face, the arms, and
19 the head on May 18th.

20 Mr. Wilson admitted that a physical
21 altercation occurred between Justin and him on May 18th.
22 No one else was present. Mr. Wilson did not tell Mrs.
23 Wilson about the altercation. Thus, the only way Mrs.

1 Wilson could have learned about the altercation was from
2 Justin.

3 Mr. Wilson testified in June 2020 that around
4 4:30 p.m. on the afternoon of May 18 he had a telephone
5 conversation with Dr. Van Sickle about the conflicting
6 information Justin was providing the two therapists.
7 Justin had denied this to Dr. Van Sickle in a session the
8 previous Friday, May 15th.

9 Mr. Wilson had confronted Justin about what he
10 had been saying to Dr. Van Sickle and Dr. Bennett. Mr.
11 Wilson admitted that he was angry, disappointed, and
12 stunned. In what Mr. Wilson characterized as a rage of
13 9.5 out of 10, he smacked the child on the bottom with an
14 open hand to get his attention and usher him into his
15 room.

16 He testified that he also took Justin by both
17 arms, placed his hands on his shoulder, and shook him
18 fairly vigorously about six times. He admitted telling
19 the child that he was so angry he couldn't look at him and
20 felt like he could break his nose, the same statement that
21 Mrs. Wilson included in her motion for a preliminary
22 protective order filed prior to Mr. Wilson's June 2020
23 testimony.

1 Afterwards, the child stayed in his room while
2 Mr. Wilson calmed down by running for a lengthy time on
3 the treadmill. Mrs. Wilson picked the child up around
4 7:00 p.m.

5 Even accepting Mr. Wilson's version of events
6 as true, given these facts, it's certainly reasonable that
7 a ten-year-old who was being securely held by his arms and
8 shoulders and shaken vigorously by a much stronger,
9 larger, outraged parent, would describe the physical
10 sensation he was feeling as being hit in the arms, head
11 and face, particularly if he had his eyes closed or if his
12 face or head came into contact with Mr. Wilson's hand
13 while they were clamped onto his shoulders.

14 No one but Mr. Wilson and Justin know exactly
15 what happened that day. But given Mr. Wilson's
16 contemporaneous admissions in June of 2020, Mr. Wilson's
17 own evidence is not inconsistent with the child's report
18 that the father struck him on the head, face and arms on
19 May 18th, 2020.

20 When Mrs. Wilson picked the child up around
21 7:00, she noticed that he was quiet and had a bruise on
22 his cheek that was blue in color. Justin did not tell her
23 about the source of the bruise on Monday, and she did not

1 take a photograph of it.

2 Dr. Warburton, who the Court accepted as an
3 expert in pediatric medicine, testified that a bruise is
4 normally red in color for the first one to two hours,
5 after which it is predominantly blue.

6 Mrs. Wilson's description of the bruise on
7 Justin's cheek is wholly consistent with both Dr.
8 Warburton's and Mr. Wilson's testimony, as he stated the
9 incident occurred sometime after 5:00, but sufficiently
10 before 7:00, to allow Mr. Wilson to perform a lengthy
11 workout on the treadmill and then sit with Justin for an
12 additional period of time before Mrs. Wilson arrived.

13 Dr. Warburton testified that between 24 and 72
14 hours after an injury is inflicted, a bruise will begin to
15 turn yellow and green with blue hues, and most bruises
16 will be completely resolved within a week.

17 Three witnesses testified that they observed a
18 bruise on Justin's cheek the way of May 18th. Ms.
19 Balusheuskaya, who saw the bruise Friday evening,
20 testified that it was yellowish-blue in color. She
21 testified that she gently touched the bruise and it did
22 not feel swollen. No makeup came off on her hand when she
23 touched the bruise.

1 The DCPS worker, Jackie Martinez, saw the
2 bruise on Saturday afternoon and described the bruise as
3 purple-blue. Ms. Martinez testified that she had not
4 notified Mrs. Wilson that she was coming to the house on
5 Saturday, and that Mrs. Wilson was out of her sight less
6 than a minute before taking Ms. Martinez to meet with
7 Justin.

8 She took photos of Justin's face from about
9 two feet away within the first ten minutes of the visit,
10 which she forwarded to the hotline staff and then deleted
11 from her phone.

12 She also spoke with Justin about what
13 happened. She did not testify that Justin seemed to be
14 fabricating or dissembling how he got the bruise and
15 offered no testimony that the bruise appeared to have been
16 applied or was fake. She recalled the coloring of the
17 bruise being more intense than what she saw depicted in
18 the photo.

19 Ms. Lanza saw Justin on Sunday and noticed a
20 discoloration on his cheek, which was yellowish and
21 fading.

22 Dr. Warburton opined that the purple-blue
23 coloration described by Ms. Martinez on Saturday was not

1 consistent with the color progression of a healing bruise.
2 Dr. Warburton also testified that when someone is slapped
3 or punched, it is more likely than not one will see hand
4 or finger marks, which he did not see any sign of in the
5 digital images.

6 However, he did not quantify how long these
7 would be visible. Dr. Warburton admitted that most of his
8 medical experience dealing with bruises was not in his
9 medical practice, as he was rarely called upon in the
10 office to treat a bruise, and he has not conducted any
11 medical research regarding bruises or aging of bruises.

12 Prior to this case, he has never been asked to
13 opine whether a photograph depicts a real or fake bruise.
14 Nevertheless, he opined the bruise in the May 2020 photos
15 was either fake or occurred sometime after May 18.

16 None of Justin's teachers reported noticing a
17 bruise on his face in any of the remote learning sessions
18 the week of May 18th. The teachers had somewhere between
19 5 and 16 students on their screens during each class.

20 While the Court finds Dr. Warburton's
21 testimony regarding the general aging and coloration
22 progression of bruises to be largely credible, the Court
23 finds that his opinion is otherwise contrary to the

1 credible evidence in the case, including the testimony of
2 the three witnesses who actually saw the bruise, none of
3 whom testified it appeared to be fake or applied.

4 Moreover, there is no evidence that Dr.
5 Warburton was apprised of these facts or that he was aware
6 that Mr. Wilson admitted vigorously shaking the child
7 while his hands were clutching the child's shoulders close
8 to his face.

9 Moreover, other than being told the child was
10 generally in good health, there is no evidence that Dr.
11 Warburton was provided any information regarding the
12 child's medical condition, including that he suffers from
13 eczema, a skin condition.

14 Rather, Dr. Warburton appears to have relied
15 on the narrowly-tailored set of factors provided by Mr.
16 Wilson's counsel to render an opinion on whether the
17 bruise depicted in the mother's photos was real, an
18 opinion he acknowledged he has not previously been called
19 upon to render in more than 40 years of practicing and
20 teaching medicine.

21 With respect to the computer forensic experts,
22 Mr. Latham and Mr. Caruso, the Court finds Mr. Caruso's
23 testimony more persuasive.

1 First, Mr. Latham received the images he
2 analyzed from another expert who performed an unknown
3 authentication analysis on the images. The Court was
4 provided no information as to whether that analysis
5 changed the images in any way.

6 Second, Mr. Latham, testified that he applied
7 different filters to the different images to attain the
8 desired results, leaving the Court to essentially compare
9 apples to oranges. Mr. Latham testified that some
10 unspecified mathematical algorithms were applied to
11 determine which filters to use. But Mr. Caruso testified
12 that it was impossible to determine or recreate the
13 methodology used by Mr. Latham or to determine its
14 accuracy.

15 While Mr. Caruso admitted that the filtering
16 process can be very valuable, there is sufficient
17 reference points for comparison. Without things such as
18 the child's actual skin tone or no lighting set up, he
19 opined there were not sufficient reference points for the
20 filters to be useful.

21 In addition, Mr. Caruso noted that the images
22 were taken with different cameras with different pixel
23 capacities and different normalization features. In

1 addition, the lighting conditions, shadows, distance, and
2 facial orientation were different in each picture. To
3 equalize the size of the images, Mr. Latham zoomed in on
4 one of the pictures, which stretched the image.

5 According to Mr. Caruso, all of these factors
6 undercut the reliability of Mr. Latham's opinion.

7 Finally, Mr. Latham testified that there
8 appeared to be an area of dark contrast on both sides of
9 the child's face, including the side that all witnesses
10 testified had no evidence of bruising.

11 Based on this evidence, the Court found it
12 impossible to determine what coloration on the child's
13 face Mr. Latham's filtering process actually highlighted
14 for analysis.

15 For these reasons, the Court gave greater
16 weight to Mr. Caruso's opinion that there was simply not
17 enough information available from the photos of the
18 child's face to draw any conclusion regarding the relative
19 placement of the bruise.

20 The second allegation in Mrs. Wilson's
21 emergency motion is that Mr. Wilson repeatedly struck
22 Justin in the face and head when the child was visiting.
23 Again, Mr. Wilson admitted in June 2020 that prior to the

1 2019 custody hearing it was possible that he struck Justin
2 on the head approximately two times per visit.

3 He explained that he did not do this to hurt
4 the child, but to make him think or remember to do
5 something. He meant it to be a strong reminder for the
6 child so that he would comply with an instruction.

7 Subsequently, in 2021, Mr. Wilson testified
8 that he would hit the child in the head with an open hand
9 only one or two times in a several week period. Either
10 way, Mr. Wilson admitted engaging in the conduct alleged
11 in Mrs. Wilson's complaints.

12 The Court has carefully considered all the
13 evidence presented in this case regarding each of the
14 above factors, and not just the facts relied upon and set
15 forth this afternoon to explain the Court's decision.

16 The Court has carefully assessed the demeanor
17 and credibility of the respective witnesses as they
18 appeared over five days of the in-person and remote
19 testimony, five days in 2021 and three days in 2020, and
20 has reviewed the exhibits introduced into evidence and
21 accorded each the weight the Court deems appropriate.

22 The Court finds that the best interest of the
23 child require that the custody and visitation schedule set

1 forth in the September 2019 modification of custody order
2 requires further modification.

3 The Court awards sole legal custody of the
4 minor child to Mrs. Wilson. Mrs. Wilson will provide Mr.
5 Wilson with information regarding any medical treatment
6 received by the child, as well as any school reports from
7 any school Justin is attending.

8 Mrs. Wilson may, but is not required to,
9 consult with Mr. Wilson regarding the child's activities,
10 school performance, and any behavior or emotional issues
11 involving the child.

12 Mrs. Wilson is granted sole physical custody
13 of Justin until further order of the Court.

14 The guardian ad litem shall identify a
15 reunification therapist no later than October 31st, 2021,
16 who will work with the father and child to begin the
17 reunification process.

18 Supervised visitation will initially be with
19 the reunification therapist, and the number and timing of
20 sessions will be decided by the therapist. When approved
21 by the reunification therapist, Mr. Wilson will also be
22 allowed supervised visitation with the child one Saturday
23 a month for a period not to exceed four hours, with

1 supervision through either Safe Havens or a certified
2 visitation professional approved by the guardian ad litem.
3 Mr. Wilson will pay for both the reunification therapy
4 services and his supervised visitation.

5 If the reunification therapist deems it
6 appropriate, Justin may also have two full days of
7 supervised visitation with his paternal grandfather and
8 uncles in Arlington prior to the end of the year, and Mr.
9 Wilson can participate in that visitation.

10 Neither parent is to make derogatory or
11 disparaging comments about the other parent or the
12 activities that parent has arranged for the child, and
13 neither parent shall use profanity in conversations with
14 the child or with the other parent.

15 Neither parent will use corporal punishment as
16 a means of disciplining the child or engage in any
17 physical abuse of the child. This is to include
18 intentionally hitting any part of the child's body to get
19 his attention, remonstrate him for inappropriate or
20 thoughtless conduct, or for any other reason, except if
21 the child's safety or health is in danger and such action
22 is necessary to protect his immediate well-being.

23 Mrs. Wilson will not call or schedule any

1 events for Justin during any of Mr. Wilson's supervised
2 visitation times. Mr. Wilson will provide Mrs. Wilson
3 with a visitation schedule approved by the reunification
4 counselor at least two weeks in advance, and Mrs. Wilson
5 can reach out to the counselor to adjust the schedule if
6 an unavoidable conflict exists.

7 Mr. Wilson will not call Justin during
8 mother's custodial time, except Mr. Wilson may call Justin
9 between 8:00 and 8:30 p.m. every Tuesday, Wednesday and
10 Thursday evening, and the calls will be limited to a half
11 hour.

12 Mrs. Wilson will ensure that Justin is
13 available to speak with his father during this time. All
14 telephone calls may be recorded without warning, pursuant
15 to this order. Mr. Wilson will be permitted to call up to
16 one hour with the child on the following holidays in 2020
17 (sic): New Year's Day, Thanksgiving, and Christmas.

18 Mr. Wilson will continue his current therapy
19 and will complete a specific anger-management program to
20 be approved by the guardian ad litem, and that can be done
21 with Dr. Zuckerman, Mr. Book, as long as there is a clear
22 focus on anger management as it applies to the
23 relationship with Mrs. Wilson and the child.

1 Mrs. Wilson is to engage in family counseling
2 with Dr. Bennett and the child at least every two weeks
3 until further order of the Court. Mrs. Wilson will make
4 every effort to ensure that Justin is attending school in
5 a consistent and timely manner, and she will work with the
6 guardian ad litem if absences or tardies continue to be an
7 ongoing issue now that school is back in-person.

8 The Court will set this matter for review in
9 January 2020 (sic), at which time the reunification
10 therapist, guardian ad litem, and Dr. Bennett shall report
11 to the Court as to whether increased visitation and
12 unsupervised visitation with Mr. Wilson, including
13 overnights, weekends, and holidays, are appropriate.

14 MR. KUBLAN: Your Honor, what was the deadline
15 for the report? I seem to have missed it.

16 THE COURT: I'm sorry?

17 MR. KUBLAN: You said there was a reporting
18 deadline for them to report to the --

19 THE COURT: I'll set a review date in January
20 of 2020 (sic), and that will be the date for everyone to
21 provide information to the Court, with the goal that Mr.
22 Wilson obviously would get increased and unsupervised
23 visitation. That is the Court's hope.

1 MR. KUBLAN: You mean January of 2022, right?

2 THE COURT: January of 2022, yes.

3 MR. BOOK: Judge, could I ask a question? I
4 was typing quickly, but is your ruling going to be
5 produced in an order, or shall we order a transcript? I
6 just want to make sure I got down all the conditions.

7 THE COURT: I think probably for everyone's
8 purposes, it makes sense to get a transcript and attach
9 that to the order, and that can be so that it is all
10 clearly set forth. I think the order can just reference
11 the enclosed transcript.

12 It's unfortunate that it's come to this point,
13 and I really hope, for Justin's sake, that he can start
14 having a normal relationship with both his parents.

15 Is there anything else that we need to do
16 today?

17 MR. KUBLAN: Yes, Your Honor, there are
18 several issues. One of the issues, as I mentioned before,
19 is the request for attorney's fees. And you said you want
20 us to schedule a different hearing for that. I do
21 believe, you know, the bulk of these attorney's fees could
22 have been avoided if the father did not raise, you know,
23 the issue of fraud and a fake bruise and all that other

1 stuff, all the conspiracy theories that we had to deal
2 with for, like, seven days of trial.

3 And I wouldn't be surprised, Your Honor,
4 considering that Mr. Bauserman kept mentioning, you know,
5 that he's creating a record, that, you know, the father
6 will be appealing this decision.

7 THE COURT: They have a right to do that.

8 MR. KUBLAN: Absolutely, Your Honor.

9 THE COURT: They have the right to do that.

10 MR. KUBLAN: Absolutely, I mean, he has the
11 right to do that, but the issue is that my client is
12 completely out of money at this point. So, I mean, she's
13 spent a significant amount of money to defend herself, and
14 not just from the legal piece.

15 I'm talking about the expertise and many other
16 things, you know, they had to go into this litigation to
17 basically to prove her innocence and to stand up for the
18 child.

19 So I don't know if Your Honor wants to have a
20 separate hearing on that, or if we can just submit some
21 kind of brief or something. I mean, I'd obviously be
22 amenable to that.

23 THE COURT: Mr. Bauserman, your position?

1 MR. BAUSERMAN: So, Your Honor, Mr. Wilson's
2 position on that is that I would like to see Mr. Kublan's
3 attorney's fees affidavit and review it ahead of time and
4 to see if I have any argument on it.

5 So I think we probably do need to reconvene
6 and, you know, reserve at least half an hour, depending
7 on, you know, to an hour to review that. I mean, I'm not
8 going to try to guess what his attorney's fees might be.

9 THE COURT: Well, I think, given the
10 complexity of all of the issues here, that having an
11 opportunity to review it ahead of time is eminently fair,
12 and so I have no problem.

13 Mr. Kublan, when do you believe you can get
14 Mr. Bauserman your attorney's fees affidavit?

15 MR. KUBLAN: Either today or tomorrow, Your
16 Honor.

17 THE COURT: I'm sorry?

18 MR. KUBLAN: Either today or tomorrow. I
19 actually have the affidavit right here with me, you know,
20 here in the (unintelligible).

21 THE COURT: All right. So he gets it to you -
22 - assuming it's the end of the day today, Mr. Bauserman,
23 so it's really tomorrow -- what kind of time would you

1 like, and would you just prefer to do a hearing, or would
2 you prefer to submit something in writing? I'm happy to
3 handle it either way.

4 MR. BAUSERMAN: I think I'd prefer to have --
5 appear in person, Your Honor, and respond.

6 THE COURT: Okay. Two weeks, is that enough
7 time, three weeks? When would you like to try to do it?
8 I'm available -- well, I'm not terribly available, but we
9 can find an afternoon time other than the last week in
10 October. I know I cannot do the 4th, the 5th, and I
11 cannot do the week of the 18th.

12 But I can do possibly the 6th, possibly --
13 well, the 6th is just next week. Possibly the 13th,
14 possibly the end of the week of the 18th.

15 MR. BAUSERMAN: So I have a full three days of
16 trial the week of the 18th, Monday, Tuesday and Wednesday.

17 THE COURT: Okay. Do you want to do it in
18 November?

19 MR. KUBLAN: I mean, obviously, our
20 preference, Your Honor, is to do it as soon as possible,
21 because --

22 THE COURT: I know, Mr. Kublan, but I'm out
23 the entire last week in October. It sounds like Mr.

1 Bauserman is out a bunch the third week in October. So, I
2 mean, we can try to find a date sometime, the 13th, 14th,
3 15th of October, that week of the 11th, but otherwise I
4 think we're into November.

5 MR. KUBLAN: I have, Your Honor, availability
6 on the 14th, Your Honor. I also can do the 15th. So, I
7 mean, are any of those dates available for Mr. Bauserman?

8 MR. BAUSERMAN: The afternoon of the 14th is
9 not available to me, but the morning is, and the afternoon
10 of the 15th is available.

11 MR. KUBLAN: It's available for me, too, Your
12 Honor, if you have availability on the Court's schedule.

13 MR. BOOK: Your Honor --

14 THE COURT: This doesn't really affect you;
15 right?

16 MR. BOOK: I was going to suggest that if I do
17 not need to participate, I don't want to hold up anybody's
18 schedule.

19 THE COURT: Okay. Do you think an hour is
20 enough time?

21 MR. BAUSERMAN: Yes.

22 MR. KUBLAN: I would think so, Your Honor,
23 yes.

1 THE COURT: All right. How about if we set it
2 on the afternoon of the 15th at, say, 2:00?

3 MR. KUBLAN: And that's October 15th, Your
4 Honor, right?

5 THE COURT: Yes, October the 15th.

6 MR. KUBLAN: Yes.

7 MR. BAUSERMAN: So that would be --

8 THE COURT: You have a trial starting on
9 Monday, or would that really create an issue for you?

10 MR. BAUSERMAN: It's not ideal, but --

11 THE COURT: Yeah, I don't think it's ideal
12 either. Would you prefer the morning of the 14th?

13 MR. BAUSERMAN: I would.

14 THE COURT: Does that work for you, Mr.
15 Kublan?

16 MR. KUBLAN: Yes, Your Honor, certainly.

17 THE COURT: Do I have a trial set that day? I
18 know I had something on the 14th. It's a carry-over,
19 yeah, it's a carry-over of a case.

20 But could we do this at 9:00 via Teams? Would
21 that work for all of you, and then we could be done by
22 10:00?

23 MR. KUBLAN: Yes, Your Honor, absolutely.

1 MR. BAUSERMAN: Yes, Your Honor.

2 THE COURT: All right. So we'll go ahead and
3 set it at 9:00 a.m. on October the 14th.

4 MR. KUBLAN: And, Your Honor, before you
5 leave, we do have one small issue here. The father still
6 continues to hold the passport, the child's passport.

7 Can we ask him to surrender it to the mother
8 at this point?

9 THE COURT: Is there any idea that she's going
10 to be traveling internationally with him right now? I
11 just don't want to inject another issue into the case that
12 doesn't need to be in there.

13 MR. KUBLAN: Well, she doesn't have any plans
14 to travel anywhere, but I believe, in light of the Court's
15 decision that my client has sole legal custody, I think
16 it's appropriate for her to keep that passport at this
17 point.

18 THE COURT: Mr. Bauserman, why don't we just
19 address that on the 14th as well, so that you have an
20 opportunity to talk with your client. I think she should
21 be entitled to it, but why don't we just take that up on
22 the morning of the 14th as well.

23 MR. BAUSERMAN: All right.

1 THE COURT: All right, thank you all.

2 MR. KUBLAN: Thank you, Your Honor.

3 (Whereupon, at approximately 3:39 o'clock
4 p.m., the proceedings in the above-entitled matter were
5 concluded.)
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CERTIFICATE OF REPORTER

I, MICHELLE L. DONATH, a Verbatim Reporter, do hereby certify that I took the stenographic notes of the foregoing proceedings which I thereafter reduced to typewriting; that the foregoing is a true record of said proceedings; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were held; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

MICHELLE L. DONATH
Verbatim Reporter

EXHIBIT D



3 years ago

I would encourage anyone considering retainment of Kublan to first search via Google "Ibrayeva v Kublan" and read the resulting document carefully and in full. It is the case summary of an appeal to a ruling for divorce filed by Kublan's former wife (and mother of their children). The document states Kublan represented himself in the matter.

Kublan has adopted the approach and argumentation reflected in his own divorce proceeding in subsequent client representations. Potential clients risk suboptimal outcomes as his approach may result in a negative reputation and/or poor credibility among some judges in Virginia.

Again, I would urge careful consideration of the case summary noted above before contacting this lawyer.

UPDATE 12/13/21

Kublan emailed the attached picture of text to my legal representative shortly after the above review appeared on Google. I have omitted the last name of my lawyer; otherwise, below I have posted Kublan's note with complete accuracy and in full.

Personnel of the Ministry of Health began with testing for a pleuropneumonia-like organism (P.L.O.) that caused an outbreak and with anti-phosphorus aerosol cover-up on the spot. Tests of the petroom will be held on Monday afternoon.

Please confirm your receipt of this email.

1.834
1.834

 Springer

Oh no 0

3:02
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EXHIBIT D

< Respond now



Justin Wilson

Dec 11 · 1:12 PM

★★★★★

"Ibrayeva v Kublan"

I would encourage anyone considering retainment of Kublan to first search via Google "Ibrayeva v Kublan" and read the resulting document carefully and in full. It is the case summary of an appeal to a ruling for divorce filed by Kublan's former wife (and mother of their children). The document states Kublan represented himself in the matter.

Kublan has adopted the approach and argumentation reflected in his own divorce proceeding in subsequent client representations. Potential clients risk suboptimal outcomes as his approach may result in a negative reputation and/or poor credibility among some judges in Virginia.

Again, I would urge careful consideration of the case summary noted above before contacting this lawyer.



Respond as Kublan Khan PLC...

Exhibit E

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"Ibrayeva v Kublan"

...

I would encourage anyone who might retain Kublan to first search via Google "Ibrayeva v Kublan" and read the resulting document carefully and in full. It is the case summary of an appeal to a ruling for divorce filed by Kublan's former wife (and mother of their children). The document states Kublan represented himself in the matter.

I believe Kublan has adopted the approach and argumentation reflected in his own divorce proceeding in subsequent client representations. I believe potential clients risk suboptimal outcomes as his approach may result in a negative reputation and/or poor credibility among some judges in Virginia.

A search for "Kublan v Humphreys" will detail Kublan's unsuccessful appeal of court-ordered sanctions. The appellant court upheld an order that Kublan pay attorney fees associated with his improper attempt to enforce a witness subpoena upon another lawyer bound by attorney-client privilege. I believe the opinion reflects poorly on Kublan's command of the law and upon his legal judgment.

Again, I would urge careful consideration of the case summaries noted above before contacting this lawyer.

1 IDHATF





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Write a review

Again, I would urge careful consideration of the case summaries noted above before contacting this lawyer.

UPDATE

Kublan emailed the below text to my legal representative shortly after the above post appeared. Here, Kublan explicitly threatens to falsely claim I have engaged in "stalking" towards obtaining a court's protective order against me. The act Kublan threatens, in my view, represents egregiously poor legal ethics and a willingness to abuse the court system. I have omitted the last name of my lawyer; otherwise, below I have posted Kublan's email with complete accuracy and in full.

An electronic search of Fairfax circuit court records indicate Kublan has initiated unsuccessful defamation suits. This practice in my view lends further credibility to an assertion echoed among others on this page that Kublan's threats have coerced the removal of negative reviews.

